

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

AT CHRISTCHURCH **ENV-2018-CHC-29, 37, 39, 40, 47, 50**

IN THE MATTER of the Resource Management Act 1991

AND of an appeal under clause 14 of the First
Schedule of the Act

BETWEEN **Aratiatia Livestock Limited**
(ENV-2016-CHC-29)
Appellant
[Continued on next page]

AND **Southland Regional Council**
Respondent

**EVIDENCE OF LINDA ELIZABETH KIRK FOR DIRECTOR-GENERAL OF
CONSERVATION AS SECTION 274 PARTY IN SUPPORT
TOPIC A**

Dated 1 March 2019

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BETWEEN

Southland Fish and Game Council
(ENV-2016-CHC-37)

Alliance Group Limited
(ENV-2016-CHC-39)

Federated Farmers of New Zealand
(ENV-2016-CHC-40)

Te Rūnanga o Ngāi Tahu and Others
(ENV-2016-CHC-47)

**Royal Forest and Bird Protection
Society of New Zealand Inc.**
(ENV-2016-CHC-50)
Appellants

AND

Southland Regional Council
Respondent

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Introduction

1. My full name is Linda Elizabeth Kirk. I have the qualifications and experience as set out in paragraphs 1-10 of my Evidence in Chief dated 15 February 2019.

Code of Conduct

2. I confirm that I have read the code of conduct for expert witnesses as contained in section 7.1 of the Environment Court's Practice Note 2014. I have complied with the practice note when preparing my written evidence and will do so when I give oral evidence before the Court.
3. The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence to follow.
4. Unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
5. I repeat the confirmation that I have read and agree to comply with the code of conduct for expert witnesses as contained in the Environment Court's Practice Note 2014.

Scope

6. I have been asked to provide planning evidence in relation to the Director-General of Conservation being a party to Topic A matters of the proposed Southland Water and Land Plan (pSWLP).
7. This evidence focuses on the Director-General of Conservation's s274 notices in support of the various Appellants on the pSWLP.
8. In preparing this evidence, I have read and considered the following documents:
 - (a) The pSWLP (notification and decision versions);
 - (b) Section 32 Report;
 - (c) Section 42A Officer's Hearing Report and Reply Report;
 - (d) Report and Recommendations of the Hearing Commissioners,
 - (e) Appeals and Section 274 notices;

- (f) Initial Planning Statement ('Updated Evaluation Report: Proposed Southland Water and Land Plan – Prepared for the Environment Court);
- (g) Statements of evidence prepared for the Southland Regional Council by Mr Matthew McCallum-Clark and Ms Rebecca Robertson;
- (h) Statements of evidence of expert witnesses prepared for:
 - a. Southland Fish and Game Council and Royal Forest and Bird Protection Society of New Zealand Incorporated by Mr Ben Farrell;
 - b. Royal Forest and Bird Protection Society of New Zealand Incorporated by Ms Kathryn Jane McArthur;
 - c. Southland Fish and Game Council by Professor Russell George Death;
 - d. Director-General of Conservation by Ms Donna Shepard, Ms Emily Funnell and Mr Brian Rance;
 - e. Ngā Rūnanga by Ms Treena Davidson;
 - f. Federated Farmers of New Zealand Incorporated by Mr Darryl Sycamore;
 - g. Alliance Group Limited by Mr John Kyle;
- (i) National Policy Statement for Freshwater Management 2014 (as amended 2017) (NPSFM);
- (j) National Policy Statement for Renewable Electricity Generation 2011 (NPSREG);
- (k) Southland Regional Policy Statement 2017 (RPS); and
- (l) New Zealand Coastal Policy Statement 2010 (NZCPS).

Executive Summary

9. Having reviewed the available documents, I consider:
- a. It is appropriate to amend Objective 6 to delete reference to the word “overall” because it is not consistent with the higher order policy direction.
 - b. It is appropriate to amend Objective 7 to provide for region-wide freshwater “numeric outcomes” to assist in maintaining existing water quality as sought by the intent of the pSWLP and, in the interim until localised freshwater objectives,

freshwater quality limits and timeframes are established under the FMU processes.

- c. It is appropriate that Objectives 9 and 9A are re-merged and include the terms “recreational values” and “margins”. This is because Objective 9 relates to water quality and quantity in broad terms, whereas Objective 17 (which also deals with margins) is more refined in focus than Objective 9 as it relates to “natural character”).
- d. It is appropriate to amend Objective 9B to “recognise and provide for” to align with the higher order planning documents and so that the full impact of potential adverse effects and how these may be managed in a resource consent application can be considered.
- e. It is appropriate that Objective 13, 13A and 13B be re-merged as recommended by Mr McCallum-Clark, Mr Farrell and Ms Davidson, with the reinstatement of clause 13(c). The use of the term “safeguard” will give better effect to the higher order planning documents.
- f. It is appropriate to amend Objective 14 to refer to “dryland environments” as this is more aligned with higher order planning documents, recognising the integrated management that is required for maintaining the range and diversity of indigenous ecosystem types and associated life-supporting capacity.
- g. It is appropriate that Objective 17 is amended to align with s6 of the RMA.
- h. It is appropriate that Objective 18 is deleted in its entirety as the elements of this objective are covered by other objectives in the pSWLP. Otherwise, I agree with Mr Kyle that the Objective is amended, and includes Good Environmental Management Practices as recommended by Mr McCallum-Clark and Mr Farrell.
- i. It is appropriate to amend Policies 4-12 Physiographic Zone Policies as recommended by Mr Farrell.

- j. It is appropriate to amend Polices 45 to 46 (FMU Policies) as recommended by Mr Farrell.

Intent of the Proposed Southland Water and Land Plan (pSWLP)

10. As stated in the “Report and Recommendations of the Hearing Commissioners”¹, “*the apparently widely accepted aim of the Plan [is] to ‘hold the line’ on water quality*”.
11. This is consistent with the recognition in the section 42A Hearing Officers’ Report that one of the “*key themes arising from submissions relates to the requirement in Objective A2 that the overall quality of fresh water within a region is maintained or improved*”².
12. The pSWLP is only the first step in the process to fully give effect to the National Policy Statement for Freshwater Management 2014 (as amended 2017) (NPSFM) and it is intended that there will be a future plan change to implement the freshwater management unit (FMU) processes under the NPSFM. The Southland Regional Council’s Progressive Implementation Programme (PIP) states that “the pSWLP implements some objectives and policies from the NPS-FM and outlines the basic process for the future inclusion of the five FMU sections of the pSWLP as a future plan change”. My understanding is that the pSWLP is required to give effect to the objectives and policies in the NPSFM, but that further specific objectives, policies and limits for individual FMU will be added by a plan change.
13. In summary, the pSWLP intends to ‘hold the line’ in relation to water quality while Freshwater Management Unit processes are undertaken and implemented. I interpret this to mean that water quality is at least maintained.

¹ Report and Recommendations of the Hearing Commissioners at [128]

² “Hearing Report: Proposed Southland Water and Land Plan – Prepared under Section 42A of the Resource Management Act 1991” at [228]

CONSIDERATION OF SPECIFIC PROVISIONS

Objective 6

14. Objective 6 in the Decision's version of the pSWLP reads³:

There is no reduction in the overall quality of freshwater, and water in estuaries and coastal lagoons, by:

- (a) maintaining the quality of water in waterbodies, estuaries and coastal lagoons, where the water quality is not degraded; and*
- (b) improving the quality of water in waterbodies, estuaries and coastal lagoons, that have been degraded by human activities.*

15. Southland Fish and Game Council (Fish and Game) and the Royal Forest and Bird Protection Society of New Zealand Incorporated (Forest and Bird) have sought the removal of 'overall' from Objective 6.
16. Mr McCallum-Clark⁴ notes that if the word 'overall' is included it may less firmly hold the Southland Regional Policy Statement 2017 (RPS) high level direction as sought from the Council during the drafting process.
17. I agree with the reasoning provided by Mr Farrell⁵ that the removal of "overall" is appropriate.

Recommendation

18. I recommend amending Objective 6 as follows⁶:

Objective 6

There is no reduction in the ~~overall~~ quality of freshwater, and water in estuaries and coastal lagoons, by:

- (a) maintaining the quality of water in waterbodies, estuaries and coastal lagoons, where the water quality is not degraded; and*

³ Note: any underlining or strikethrough is from the Decision's version of the pSWLP

⁴ McCallum-Clark EIC dated 14 December 2018 at [54]

⁵ Farrell EIC dated 17 February 2019 at [75, 76 and 81]

⁶ Note: any underlining or strikethrough are my proposed amendments to the Decision's version of pSWLP

- (b) *improving the quality of water in waterbodies, estuaries and coastal lagoons, that have been degraded by human activities.*

Objective 7

19. Objective 7 in the decision's version of the pSWLP reads⁷:

Any further over-allocation of freshwater (water quality and quantity) is avoided and any existing over-allocation is phased out in accordance with freshwater objectives, freshwater quality limits and timeframes established under Freshwater Management Unit processes.

20. I agree with Mr Farrell⁸ that it is appropriate to address existing water over-allocation when considering applications to take/use water or contaminate waterbodies to help achieve the intent of the pSWLP to "maintain or improve" water quality and water quantity in the Region. Including the phrase "or earlier when considering resource consent applications" in Objective 7 as Mr Farrell suggests, in my opinion will provide clarity and direction to both the Plan user and the decision-maker. This will enable recognition that existing freshwater allocation (both in terms of water quality and water quantity) is a key consideration ahead of the FMU process having been established.
21. I do not consider it appropriate to wait for the FMU processes to address over-allocation as the RPS clearly seeks that water quality is maintained or improved (RPS Objective WQUAL.2). This applies now, not just at a future time.
22. Nor do I consider it appropriate to rely on the provisions of Objectives 3 and 6, coupled with Policies 15B, 17A, 40 and 42 (as currently drafted) as Mr McCallum-Clark suggests⁹, due to the limited application of these provisions as discussed by Mr Farrell¹⁰. I do not consider these provisions provide sufficient direction for all types of resource consents

⁷ Note: any underlining or strikethrough is from the Decision's version of the pSWLP

⁸ Farrell EIC dated 17 February 2019 at [89]

⁹ McCallum-Clark EIC dated 14 December 2018 at [69]

¹⁰ Farrell EIC dated 17 February 2019 at [90]

that may be sought in the interim period before the forthcoming FMU processes. I consider that having a clearer objective in relation to freshwater quality and quantity is required.

Recommendation

23. I recommend amending Objective 7 as follows¹¹:

Objective 7

Any further over-allocation of freshwater (water quality and quantity) is avoided and any existing over-allocation is phased out in accordance with freshwater objectives, freshwater quality limits and timeframes established under Freshwater Management Unit processes, or earlier where the resource is being used to a point where a region-wide freshwater numeric outcome(s) is no longer being met.

Objective 9 and 9A

24. Objectives 9 and 9A in the decision's version of the pSWLP read¹²:

Objective 9

~~*(a) The quantity of water in surface waterbodies is managed so that aquatic ecosystem health, life-supporting capacity, outstanding natural features and landscapes, recreational values, and natural character, and historic heritage values of surface waterbodies and their margins are safeguarded.; and*~~

Objective 9A

~~*(b) Provided (a) is met, water is*~~ *Surface water is sustainably managed available both instream and out-of-stream to support the reasonable needs of people and communities to provide for their social, economic and cultural wellbeing.*

¹¹ Note: any underlining or strikethrough are my proposed amendments to the Decision's version of pSWLP

¹² Note: any underlining or strikethrough is from the Decision's version of the pSWLP

Structure

25. I agree with Mr McCallum-Clark¹³ and Mr Farrell¹⁴ that re-merging Objectives 9 and 9A and reinstating the intended prioritisation of the matters in Objective 9A would make the pSWLP clearer and easier to interpret. This would provide for a prioritisation for the safeguarding of natural values over water abstraction. As a result, there would be greater clarity in interpretation for the Plan user and decision-maker, and strengthening of the planning framework.

Inclusion of ‘waterbodies and their margins’

26. While there is a relationship between Objectives 9, 9A and 17, in my opinion, they have quite distinct differences in the outcomes being sought. I consider that Objectives 9 and 9A are more aligned directly with the water resource itself, whereas Objective 17 is aligned specifically with natural character values.
27. I disagree with Mr McCallum-Clark¹⁵ that Objective 17 of the pSWLP ‘clearly’ provides for the “preservation of the margins of lakes, rivers and wetlands” as required under section 6(a) of the RMA.
28. In my discussion about Objective 17 further on in my evidence [70-74], I consider that Objective 17 provides for the “protection” of waterbody margins from inappropriate subdivision, use and development, as required under s6(a) of the RMA, but not the “preservation” of natural character aspect of s6(a). The term “safeguard” in my opinion, better provides for the “preservation” element required under s6(a) of the RMA. Therefore, I consider it appropriate that the phrase “of surface waterbodies and their margins” should be reinstated in Objective 9 accordingly.
29. As the purpose of the RMA at s5(2)(b)¹⁶ uses the term “*safeguarding the life-supporting capacity of ...ecosystems*”, I consider that it is appropriate

¹³ McCallum-Clark EIC dated 14 December 2018 at [95]

¹⁴ Farrell EIC dated 17 February 2019 at [97]

¹⁵ McCallum-Clark EIC dated 14 December 2018 at [85]

¹⁶ *5 Purpose*

that the margins of surface waterbodies are explicitly “safeguarded” in Objective 9 itself. This will provide clarity and not rely on Objective 17 to give effect to s6(a) of the RMA. I consider that in combination, Objectives 9 (as amended) and 17 would best give effect to the dual ‘recognition and providing for’ elements sought under s6(a) of the RMA. In doing so, this would strengthen the planning framework both with the RMA and within the pSWLP.

30. I consider that Ms McArthur¹⁷ succinctly explains why waterbody margins should also be reinstated within Objective 9 “*as waterbodies and their margins function ecologically as one system. When the functionality of margins is compromised, values such as ecosystem health are eroded or lost.*”
31. Mr Rance¹⁸ identifies the threatened status of some plant species which are endemic to (only found in) Southland that are found in turf on the margins of lakes and tarns. This provides an example of the values that can be maintained if waterbodies and their margins are managed as one system.

Inclusion of ‘recreational values’

32. I agree with Mr Farrell¹⁹ that the “deletion of recreation values” from Objective 9 has left a gap in the suite of Objectives of the pSWLP, which does not enable Policies 20, 24 and 29 to directly link back to specific objectives in the pSWLP.

(1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*

(2) *In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*

(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

¹⁷ McArthur EIC dated 15 February 2019 at [72-74]

¹⁸ Rance EIC dated 1 March 2019 at [32]

¹⁹ Farrell EIC dated 17 February 2019 at [99-103]

33. I agree with both Mr McCallum-Clark²⁰ and Mr Farrell²¹ that safeguarding recreation values accords with the NPSFM Objective A3, as it provides a clear objective requiring immediate action to ensure freshwater is suitable for primary contact. The definition of ‘primary contact’ under the NPSFM “means people’s contact with fresh water that involves immersion in water, including swimming”. I also note that the NPSFM Appendix 1 (National values and uses for fresh water) identifies “Human health for recreation”:

*“**Human health for recreation** – In a healthy waterbody, people are able to connect with the water through a range of activities such as swimming, waka, boating, fishing, mahinga kai and water-skiing, in a range of different flows.*

...”

34. Therefore, to enable clear alignment and to strengthen the policy framework within the pSWLP, the term “recreational values” should be reinstated in Objective 9. This will go some way towards giving effect to the NPSFM Objective A3, the RPS framework (Objective WQUAN. 1(c) and Policy WQUAN.3(g)), and not be inconsistent with the Water Conservation Orders for the Mataura and Oreti Rivers as discussed by Mr Farrell²².

Recommendation

35. I recommend that Objectives 9 and 9A are combined and amended follows²³:

Objective 9

(a) The quantity of water in surface waterbodies is managed so that aquatic ecosystem health, life-supporting capacity, outstanding natural features and landscapes, recreational

²⁰ McCallum-Clark EIC dated 14 December 2018 at [82]

²¹ Farrell EIC dated 17 February 2019 at [100]

²² Farrell EIC dated 17 February 2019 at [98-103]

²³ Note: any underlining or strikethrough are my proposed amendments to the Decision’s version of pSWLP

values, and natural character of waterbodies and their margins are safeguarded.

~~Objective 9A~~

(b) Surface water is sustainably managed to support the reasonable needs of people and communities to provide for their social, economic and cultural wellbeing.

Objective 9B

36. Objective 9B of the decision's version of the pSWLP reads²⁴:

The effective development, operation, maintenance and upgrading of Southland's regionally significant, nationally significant, and critical infrastructure is enabled.

37. I note that Fish and Game have withdrawn their appeal on Objective 9B but the other Appellants, Federated Farmers of New Zealand Inc (Federated Farmers) have considered the relief sought for Objective 9B in their evidence, and Forest and Bird have remained silent on this point in their evidence.

Consistency in Planning Hierarchy

38. Pursuant to s67(3) of the RMA, the pSWLP must give effect to the NPSFM (with FMU specific provisions yet to come via a plan change) and the RPS. To achieve this, as stated under s67(1) of the RMA, the pSWLP must include objectives for the region, and policies to implement these objectives.
39. It is clear from the Officers' Reply Report that the intent of the inclusion of Objective 9B is to give effect to the RPS. As the RPS uses the terms "recognise" and "make provision for" in Policy INF.1, in order to give effect to the RPS it is appropriate that the pSWLP uses consistent terminology.
40. Policy INF.1 of the RPS reads (my emphasis is underlined):

²⁴ Note: any underlining or strikethrough is from the Decision's version of the pSWLP

Policy INF.1 – Regional, national and critical infrastructure
Recognise the benefits to be derived from, and make provision for, the development, maintenance, upgrade and ongoing operation of regionally significant, nationally significant and critical infrastructure and associated activities.

41. In its current form, Policy 26A uses with the phrase “recognise and provide for” and having Objective 9B align with this will provide more clarity in decision making and plan usage, including in any rules that that are for the purpose of achieving this Objective.
42. Amending Objective 9B to “recognise and provide for” rather than “enable” will provide better alignment of the planning provisions across the planning hierarchy and within the proposed Plan itself.
43. With respect to the higher order documents, I consider the use of “recognise and provide for” would give effect to:
 - a. RPS – Policy INF.1
 - b. NPSFM – Objectives A4 and B5, and Policies A7 and B8
 - c. NZCPS - Objective 7 and Policy 6.

“Enable” vs “Recognise and Provide For”

44. The Collins “*Concise English Dictionary*”²⁵ defines the term “enable” as:

“to provide (someone) with adequate power, means opportunity, or authority (to do something); “to make possible”
45. I agree with Mr Sycamore²⁶ that the term “enable” confers an at-all-costs mentality to do something which may potentially lead a decision-maker to not consider the full impact of potential effects of that activity.
46. In my opinion, the term “recognise and provide for” encourages the consideration of the full impact of potential adverse effects and how these may be managed in any resource consent application for an activity.

²⁵ Collins, 1982, “*Concise English Dictionary*”, Third Edition, HarperCollins Publishers, England, page 422

²⁶ Sycamore EIC dated 15 February 2019 at [26]

47. I consider that the term “enable” is much more permissive than the phrase “recognise and provide for” and may inadvertently allow for consents to be granted where it may not otherwise have been desirable to do so.
48. I agree with Mr Sycamore²⁷ that “*such a directive “enabling” objective may skew the assessment balance too heavily in favour of the infrastructure owner, which may result in potentially unintended outcomes*”. Therefore, from a planning perspective, I support the phrase “recognise and provide for” replacing the term “enable” in Objective 9B.

Recommendation

49. I recommend that Objective 9B is amended as follows²⁸:

Objective 9B

The effective development, operation, maintenance and upgrading of Southland’s regionally significant, nationally significant and critical infrastructure is ~~enabled~~ recognised and provided for.

Objective 10

50. Objective 10 of the decision’s version of the pSWLP reads²⁹:

The national importance of ~~the existing~~ hydro-electric generation schemes, including the Manapōuri Power S hydro-electric generation scheme in the Waiau catchment, is provided for, and recognised in any resulting flow and level regime, and their structures are considered as part of the existing environment.

51. Objective 10 relates to Rule 52A which is under appeal. In its current form, Rule 52A is a controlled activity. A caveat to any potential change in wording of Objective 10 is that it may be subject to further

²⁷ Sycamore EIC dated 15 February 2019 at [23 to 26]

²⁸ Note: any underlining or strikethrough are my proposed amendments to the Decision’s version of pSWLP

²⁹ Note: any underlining or strikethrough is from the Decision’s version of the pSWLP

consideration or change as a result of any changes that occur through the appeal on Rule 52A.

52. I note that the appellants, except Meridian Energy Ltd, seek reinstatement of the notified version of Objective 10.
53. Aratiatia Livestock Limited sought that Objective 10 be reinstated as notified, as follows:

“The national importance of the existing Manapouri Power Scheme in the Waiau catchment is provided for, and recognised in any resulting flow and level regime.”

54. I agree with Mr McCallum-Clark³⁰ that the effects of water takes, discharges, damming and diversion are not part of the existing environment.
55. I note that the Director-General of Conservation supported the relief sought by Aratiatia Livestock Limited and Ngā Rūnanga on the basis that not all of the hydro-schemes are nationally significant.
56. I agree that the relief sought by Aratiatia Livestock Limited and Ngā Rūnanga to reinstate the intent of the notified objective is appropriate as it:
- a. is consistent with Part 2 of the RMA by achieving the sustainable management purpose in section 5; and recognises and provides for matters of national importance;
 - b. gives effect to Policies A and C of the National Policy Statement for Renewable Electricity Generation 2011 (NPSREG) as required under section 67(3) of the RMA;
 - c. gives effect to the NPSFM as required by section 67(3) of the RMA, in particular: Objectives A1, A4, B1, B2, B4, B5, Policies A1, A7, B1, and B5.
 - d. gives effect to the SRPS as required by section 67(3) of the RMA, in particular: Objectives WQUAL.1, WQUAN.1,

³⁰ McCallum-Clark EIC dated 14 December 2018 at [131]

WQUAN.2; Policies WQUAL.1, WQUAN.1-WQUAN.5, WQUAN.7 and WQUAN.8.

Recommendation

57. I recommend that Objective 10 is amended as follows³¹:

Objective 10

The national importance of the existing Manapōuri hydro-electric generation schemes, including the Manapōuri hydro-electric generation scheme in the Waiau catchment, is recognised and provided for, recognised in any resulting flow and level regime, and their structures are considered as part of the existing environment.

Objective 13, 13A and 13B

58. Objectives 13, 13A and 13B of the decision's version of the pSWLP read³²:

Objective 13

Enable the use and development of land and soils to support the economic, social, and cultural wellbeing of the region, provided:

Objective 13A

~~(a)~~ The quantity, quality and structure of soil resources are not irreversibly degraded through land use activities and/or discharges to land;

Objective 13B

~~(b)~~ The discharge of contaminants to land or water that have significant or cumulative adverse effects on human health are avoided.

³¹ Note: any underlining or strikethrough are my proposed amendments to the Decision's version of pSWLP

³² Note: any underlining or strikethrough is from the Decision's version of the pSWLP

~~(c) adverse effects on ecosystems (including diversity and integrity of habitats), amenity values, cultural values and historic heritage values are avoided, remedied or mitigated to ensure these values are maintained or enhanced.~~

Reinstatement of single objective

59. I support the evidence of Mr McCallum-Clark, Mr Farrell and Ms Davidson that Objectives 13, 13A and 13B should be reinstated as a single objective with separate clauses.
60. With respect to Ms Davidson’s evidence, I also support the position that the three new objectives do not give effect to ki uta ki tai (Mountains to the Sea). Therefore, the plan would not give effect to the New Zealand Coastal Policy Statement provisions: Objective 1, Policy 3 and Policy 11, as well as Policy C1 of the NPSFM.

Reinstatement of clause 13(c)

61. I support the evidence of Mr McCallum-Clark, Mr Farrell and Ms Davidson that clause 13(c) as notified should be reinstated, with the amendments as provided by Mr Farrell³³.
62. In relation to the adverse effects on ecosystems and safeguarding these values, I consider that the use of the term “safeguard” rather than the originally notified term ‘maintain”, would give effect to the higher order planning documents such as, but not limited to, Objective 1 of the NPSFM, and Objective WQUAL.1 of the RPS, as each of these provisions also use the term “safeguard”.

Alliance Group Ltd amendment to Objective 13B

63. With respect to Objective 13B, I agree with Mr Kyle³⁴ that the term “cumulative” is a subset of the term “effect” as defined in s3³⁵ of the RMA, and therefore can be removed from Objective 13B.

³³ Farrell EiC dated 17 February 2019 at [113]

³⁴ Kyle EiC dated 15 February 2019 at [3.8]

³⁵ **3 Meaning of effect**

In this Act, unless the context otherwise requires, the term effect includes—

(a) any positive or adverse effect; and

(b) any temporary or permanent effect; and

(c) any past, present, or future effect; and

(d) any cumulative effect which arises over time or in combination with other effects—

Recommendation

64. I recommend that Objectives 13, 13A and 13B are combined and amended as follows³⁶:

Objective 13

*Enable the use and development of land and soils ~~to support the economic, social, and cultural wellbeing of the region,~~
provided:*

Objective 13A

(a) ~~t~~The quantity, quality and structure of soil resources are maintained and managed to avoid irreversible degradation from ~~not irreversibly degraded through~~ land use activities or discharges to land;

Objective 13B

(b) ~~t~~The discharge of contaminants to land or water that have significant adverse effects on human health are avoided.

(c) adverse effects on ecosystems (including indigenous biological diversity and integrity of habitats), amenity values, recreation and cultural values are avoided, remedied or mitigated to ensure these values are safeguarded or enhanced.

Objective 14

65. Objective 14 of the decision's version of the pSWLP reads³⁷:

The range and diversity of indigenous ecosystem types and habitats within ~~dryland environments,~~ rivers, estuaries, wetlands

regardless of the scale, intensity, duration, or frequency of the effect, and also includes—

(e) any potential effect of high probability; and

(f) any potential effect of low probability which has a high potential impact.

³⁶ Note: any underlining or strikethrough are my proposed amendments to the Decision's version of pSWLP

³⁷ Note: any underlining or strikethrough is from the Decision's version of the pSWLP

and lakes, including their margins, and their life-supporting capacity are maintained and enhanced.

66. The Director-General of Conservation supported Forest & Bird in its s274 Notice to reinstate “dryland environments” into Objective 14. The planning provisions of NPSFM Objective B2 and the RPS Objectives BIO.1 and BIO.2 and Policy BIO.3 were referred to in the reasoning for supporting this reinstatement. However, I consider that Objective C1 of the NPSFM and Objective BIO.2 of the RPS are also relevant for Objective 14:

Objective C1 [NPSFM]

To improve integrated management of fresh water and the use and development of land in whole catchments, including the interactions between fresh water, land, associated ecosystems and the coastal environment.

Objective BIO.2 – Maintain and protect [RPS]

Maintain indigenous biodiversity in Southland and protect areas of significant indigenous vegetation and significant habitats of indigenous fauna for present and future generations.

67. Both of these provisions endeavour to cover all types of environments which I consider was the intent of Objective 14. In my interpretation of Objective 14, by reinstating “dryland environments” would allow this objective to be more aligned with higher order planning documents, recognising the integrated management that is required for maintaining the range and diversity of indigenous ecosystem types, and the associated life-supporting capacity.

Recommendation

68. I recommend that Objective 14 is amended as follows³⁸:

Objective 14

The range and diversity of indigenous ecosystem types and habitats within dryland environments, rivers, estuaries,

³⁸ Note: any underlining or strikethrough are my proposed amendments to the Decision’s version of pSWLP

wetlands and lakes, including their margins, and their life-supporting capacity are maintained and enhanced.

Objective 17

69. Objective 17 of the decision's version of the pSWLP reads³⁹:

The natural character values of wetlands, river and lakes and their margins, including channel and bed form, ~~bed~~ rapids, seasonably variable flows and natural habitats, are protected from inappropriate use and development.

70. I agree with Mr Farrell⁴⁰ that s6(a) of the RMA has two distinct elements – firstly, “preserve” the natural character of wetlands, rivers and lakes and their margin; and secondly, “how” this natural character is being protected from inappropriate use and development in the respective environment it resides in. It is not the natural character in and of itself that is subject to use and development, it is the environment which is subject to use and development, and that in turn impacts upon natural character.
71. It is the “preserve” element which is specifically missing in the pSWLP (and the RPS) which means the pSWLP can not give effect to the RMA in my opinion, due to lack of direction.
72. I agree with Mr McCallum-Clark⁴¹, Meridian's s274 Notice⁴² and Mr Farrell⁴³ that the level of protection of the natural character values, from inappropriate use and development, can be adequately assessed on a case-by-case basis, ranging from preservation where the values are very high, to little protection where the natural character values are very low, and such an assessment is implied. However, the lack of clear direction in the planning framework as to what level the “implied” protection assessment is to be applied, is of concern in this objective.

³⁹ Note: any underlining or strikethrough is from the Decision's version of the pSWLP

⁴⁰ Farrell EIC dated 17 February 2019 at [119-120]

⁴¹ McCallum-Clark EIC dated 14 December 2018 [179]

⁴² Meridian Energy Limited, Notice of s274 Party re Royal Forest and Bird Protection Society of NZ Inc (Appellant) and Southland Regional Council (Respondent), dated 22 June 2018, [4(c)] page 2

⁴³ Farrell EIC dated 17 February 2019 at [122]

73. As an alternative option, I consider that as Objective 17 relates specifically to the “natural character” of wetlands, rivers and lakes, then it is appropriate to restate Objective 17 in the same vein as s6(a)⁴⁴ of the RMA, and make a clear distinction between the two elements of “preservation” and “protection”.
74. In my opinion, taking this approach would provide greater clarity and alignment with s6(a) of the RMA. It would help identify the level of assessment required when considering what is the appropriate use and development in these environments.

Recommendation

75. I recommend that Objective 17 is amended as follows⁴⁵:

Objective 17

Preserve the ~~The~~ natural character ~~values~~ of wetlands, rivers and lakes and their margins, including channel and bed form, rapids, seasonable variable flows and natural habitats, are protected ~~and protect them~~ from inappropriate use and development.

Objective 18

76. Objective 18 of the decision’s version of the pSWLP reads⁴⁶:

Objective 18

All activities operate in accordance with ~~at~~ “good ~~(environmental)~~ management practice” or better to optimise efficient resource use, safeguard the life supporting capacity of ~~and protect~~ the region’s

⁴⁴ s6(a) of the RMA: *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*

⁴⁵ Note: any underlining or strikethrough are my proposed amendments to the Decision’s version of pSWLP

⁴⁶ Note: any underlining or strikethrough is from the Decision’s version of the pSWLP

land, and soils, and maintain or improve the ~~water from~~ quality and quantity of the region's water resources. ~~degradation.~~

77. I agree in part with Mr Farrell⁴⁷ that the use of the term Good Management Practices (in the policies and rules relating to farming) does not implement direction of Policy A3(2) of the NPSFM.
78. I disagree with Mr Farrell and Mr McCallum-Clark that it is appropriate at an objective level, to suggest how an activity operates, which in this case is “in accordance with “good environmental management practice” or better”. This should be done, as identified in Policy A3 of the NPSFM, at the rule level, where the effects are trying to be managed.
79. In my opinion, an objective should provide direction for the outcomes sought, not provide guidance on how the objective is to be achieved (that is the role of policies). The detail of the requirements or conditions (this being “activities operating in accordance with good environmental management practice” in this case) should be in the rules of the plan.
80. It is unclear to me whether the intent of Objective 18 is to give effect to the NPSFM, particularly in relation to Policy A3 in its entirety (which is pursuant to Policies A1 and A2 being met). I consider that the fundamental concern with Objective 18 lies with the reliance on good management practices or best practicable option without understanding if “good management practices” by themselves will manage the adverse effects appropriately.
81. As an alternative option, I consider that Objective 18 should be deleted in its entirety as it does not add any value, clarity or certainty in the pSWLP. I consider that other objectives in the pSWLP cover the elements within Objective 18 as follows:
- a. Efficient resource use – covered under Objective 9A and 11;
 - b. Safeguard the life supporting capacity or the region's land, soils – covered under Objective 9, 13A, 14; and
 - c. Maintain or improve the water quality and quantity – covered under Objective 6 and 7, 8, and 12;

⁴⁷ Farrell EIC dated 17 February 2019 at [127]

82. However, if the Court is of a mind to retain Objective 18, I agree with Mr Kyle⁴⁸ that Objective 18 does require some revision and refinement in order to better achieve the requirements of s32 of the Act and the purpose of the Act.
83. If Objective 18 is retained, I support both Mr Kyle⁴⁹ and Mr Farrell⁵⁰ in the use of the term “best practicable option” for the management of all activities rather than “Good [Environmental] Management Practices” as this better aligns with Policy A3((b))⁵¹ of the NPSFM and other provisions in the pSWLP as identified by Mr Farrell⁵². As noted above however, I consider Policy A3(b) envisages adoption of best practicable option at the rule level, not the objective level, in a regional plan.
84. If Objective 18 is to be retained with reference to Good Management Practice, I agree with Mr McCallum-Clark⁵³ and Mr Farrell⁵⁴ that Good [Environmental] Management Practice should be encouraged for all activities and that the definition of “Good [Environmental] Management Practice”⁵⁵ (GMP) should be amended to be more specific about what good management practices actually are.

⁴⁸ Kyle EIC dated 15 February 2019 at [5.1]

⁴⁹ Kyle EIC dated 15 February 2019 at [187]

⁵⁰ Farrell EIC dated 17 February 2019 at [127-129]

⁵¹ **Policy A3**

By regional councils:

b) where permissible, making rules requiring the adoption of best practicable option to prevent or minimise any actual or likely adverse effect on the environment of any discharge of contaminant into fresh water, or onto or into land in circumstance that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering fresh water.

⁵² Farrell EIC dated 17 February 2019 at [35]

⁵³ McCallum-Clark EIC dated 14 December 2018 at [194]

⁵⁴ Farrell EIC dated 17 February 2019 at [130-131]

⁵⁵ **“Good management practices**

include, but not limited to, the practices set out in the various Good Management Practices factsheets available on the Southland Regional Council’s webpage.” (Glossary of pSWLP at page 148)

Recommendation

85. I recommend that Objective 18 is deleted in its entirety⁵⁶:

~~Objective 18~~

~~All activities operate in accordance with “good management practice” or better to optimise efficient resource use, safeguard the life supporting capacity of the region’s land, and soils, and maintain or improve the quality and quantity of the region’s water resources.~~

If not deleted, then I recommend that Objective 18 and the definition of “Good Management Practices” are amended, or amended with like effect, as follows:

Objective 18

All activities operate in accordance with “good environmental management practice” or “best practicable option”, or better, to optimise efficient resource use, safeguard the life supporting capacity of the region’s land, and soils, and maintain or improve the quality and quantity of the region’s water resources.

Good management practices

~~include, but not limited to, means the practices described in the documents entitled “Good Management Practices” relating to water quality – dated XXXX. factsheets available on the Southland Regional Council’s webpage.~~

⁵⁶ Note: any underlining or strikethrough are my proposed amendments to the Decision’s version of pSWLP

Policies 4 – 12 (Physiographic Zone Policies)

86. Policies 4-12 of the decision's version of the pSWLP read⁵⁷:

Policy 4 – Alpine

In the Alpine physiographic zone, avoid, remedy, or mitigate erosion and adverse effects on water quality from contaminants, by:

- 1. requiring implementation of good management practices to manage erosion and adverse effects on water quality from contaminants transported via overland flow;*
- 2. having particular regard to adverse effects of contaminants transported via overland flow when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and*
- 3. prohibiting dairy farming, and intensive winter grazing and decision makers generally not granting ~~strongly discouraging the granting of~~ resource consents for cultivation.*

Policy 5 – Central Plains

In the Central Plains physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

- 1. requiring implementation of good management practices to manage adverse effects on water quality from contaminants transported via artificial drainage and deep drainage;*
- 2. having particular regard to adverse effects on water quality from contaminants transported via artificial drainage and deep drainage when assessing resource consent applications and preparing or considering Farm Environmental Management Plans.; and*
- 3. decision makers generally not granting resource consents for additional dairy farming of cows or additional intensive winter*

⁵⁷ Note: any underlining or strikethrough is from the Decision's version of the pSWLP

grazing where contaminant losses will increase as a result of the proposed activity.

Policy 6 – Gleyed, Bedrock/Hill Country and Lignite-Marine Terraces

In the Gleyed, Bedrock/Hill Country and Lignite-Marine Terraces physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

1. *requiring implementation of good management practices to manage adverse effects on water quality from contaminants transported via artificial drainage, and overland flow where relevant; and*
2. *having particular regard to adverse effects on water quality from contaminants transported via artificial drainage, and overland flow where relevant when assessing resource consent applications and preparing or considering Farm Environmental Management Plans.*

~~Policy 7 – Bedrock/Hill Country~~

~~*In the Bedrock/Hill Country physiographic zone, avoid, remedy, or mitigate erosion and adverse effects on water quality from contaminants, by:*~~

- ~~1. *requiring implementation of good management practices to manage erosion and adverse effects on water quality from contaminants transported via overland flow and artificial drainage where relevant;*~~
- ~~2. *having particular regard to adverse effects on water quality from contaminants transported via overland flow and artificial drainage where relevant when assessing resource consent applications and preparing or considering management plans.*~~

~~Policy 8 – Lignite-Marine Terraces~~

~~*In the Lignite-Marine Terraces physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:*~~

- ~~1. requiring implementation of good management practices to manage adverse effects on water quality from contaminants transported via overland flow and artificial drainage where relevant;~~
- ~~2. having particular regard to adverse effects on water quality from contaminants transported via overland flow and artificial drainage where relevant when assessing resource consent applications and preparing or considering management plans.~~

Policy 9 – Old Mataura

In the Old Mataura physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

- 1. requiring implementation of good management practices to manage adverse effects on water quality from contaminants transported via deep drainage;*
- 2. having particular regard to adverse effects on water quality from contaminants transported via deep drainage when assessing resource consent applications and preparing or considering Farm Environmental Management Plans and*
- 3. decision makers generally not granting ~~strongly discouraging the granting of~~ resource consents for additional dairy farming of cows or ~~and~~ additional intensive winter grazing where contaminant losses will increase as a result of the proposed activity.*

Policy 10 – Oxidising

In the Oxidising physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

- 1. requiring implementation of good management practices to manage adverse effects on water quality from contaminants transported via deep drainage, and overland flow and artificial drainage where relevant;*
- 2. having particular regard to adverse effects on water quality from contaminants transported via deep drainage, and overland flow and artificial drainage where relevant when assessing resource*

consent applications and preparing or considering Farm Environmental Management Plans.; and

- 3. decision makers generally not granting resource consents for additional dairy farming of cows or additional intensive winter grazing where contaminant losses will increase as a result of the proposed activity.*

Policy 11 – Peat Wetlands

In the Peat Wetlands physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

- 1. requiring implementation of good management practices to manage adverse effects on water quality from contaminants transported via artificial drainage, deep drainage, and lateral drainage;*
- 2. having particular regard to adverse effects on water quality from contaminants transported via artificial drainage, deep drainage, and lateral drainage when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and*
- 3. decision makers generally not granting ~~strongly discouraging the granting of~~ resource consents for additional dairy farming of cows or and additional intensive winter grazing where contaminant losses will increase as a result of the proposed activity.*

Policy 12 - Riverine

In the Riverine physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

- 1. requiring implementation of good management practices to manage adverse effects on water quality from contaminants transported via deep drainage, and overland flow where relevant;*
- 2. having particular regard to adverse effects on water quality from contaminants transported via deep drainage, and overland flow where relevant when assessing resource consent applications*

and preparing or considering Farm Environmental Management Plans.; and

3. decision makers generally not granting resource consents for additional dairy farming of cows or additional intensive winter grazing where contaminant losses will increase as a result of the proposed activity.

87. Mr Farrell⁵⁸ has clearly identified four distinct issues to be addressed in relation to the Physiographic Zone Policies (Policies 4-12) which I support:
- a. Reinstate the physiographic maps;
 - b. Separate Policy 6 in to three separate policies;
 - c. Promote Best Practicable Option for land uses which may contaminate water; and
 - d. Direct decision-makers to avoid contaminants entering water by “not” granting resource consent for activities which are known to pose a high risk to water quality (as determined by the key transport contaminant pathway for the respective physiographic zone).
88. I agree with Mr Farrell⁵⁹ with respect to his discussion, reasoning, summation of the technical evidence and recommendations in relation to Policies 4-12. I support the need to actively manage land use now, not in several years when the National Objectives Framework (NOF) processes are implemented (Farrell [151]).
89. I also agree with Mr Farrell⁶⁰ that the use of the physiographic zones approach as a planning tool, will provide a clearer link between Policy 12A and the physiographic zone policies so that some discretion is provided for “on the ground” level for a particular landholding.
90. In my opinion, with the addition of clarification of how contaminants enter waterbodies depending upon the key transport contaminant pathway for the respective physiographic zone being stated within each policy, this would provide clarity for the decision maker and plan user on the key

⁵⁸ Farrell EIC dated 17 February 2019 at [156]

⁵⁹ Farrell EIC dated 17 February 2019 at [134-157]

⁶⁰ Farrell EIC dated 17 February 2019 at [153]

effects to consider in assessing any resource consent application. This approach is supported by and affirms the approach that I have taken with respect to Policy 4⁶¹ so that the higher order planning documents (the NPSFM and RPS) are better given effect to as well as strengthening the alignment within the pSWLP provisions.

91. I agree with Ms Davidson⁶² that as a planning tool, using the physiographic zone within each policy “recognises the different ways that water moves through the land and therefore the variability to risk from nutrient loss across the region”. This also aligns with the concept of ki uta ki tai (mountains to the sea approach).

Recommendations

92. I recommend:
- a. Including the physiographic maps as part of the pSWLP;
 - b. Separating Policy 6 into three separate policies;
 - c. Direct land uses which may contaminate water to avoid as far as practicable, contaminates entering water by promoting the uptake of the Best Practicable Option; and
 - d. Direct decision-makers to avoid containments entering water by “not” granting resource consent for activities which are known to pose a high risk to water quality within each respective physiographic zone.

⁶¹ Kirk EIC dated 15 February 2019 at [55]

⁶² Davidson EIC dated 15 February 2019 at [131]

93. I recommend the following specific amends to the policies, or amendments with like effect⁶³:

Physiographic Zone Policies

Policy 4 – Alpine

In the Alpine physiographic zone, avoid, remedy, or mitigate erosion and adverse effects on water quality from contaminants, by:

1. *requiring implementation of good management practices or the best practicable option to avoid as far as practicable ~~manage~~ erosion and ~~adverse effects on water quality from~~ contaminants entering water transported via overland flow;*
2. *~~having particular regard to~~ avoiding as far as practicable adverse effects of contaminants transported via overland flow when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and*
3. *prohibiting dairy farming and intensive winter grazing, and decision makers generally should not granting⁶⁴ resource consents for cultivation where contaminants may enter waterbodies.*

Policy 5 – Central Plains

In the Central Plains physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

1. *requiring implementation of good management practices or the best practicable option to avoid as far as practical ~~manage~~ ~~adverse effects on water quality from~~ contaminants entering water transported via artificial drainage and deep drainage;*
2. *~~having particular regard to~~ avoiding as far as practicable adverse effects on water quality from contaminants transported via artificial drainage and deep drainage when assessing*

⁶³ Note: any underlining or strikethrough are my proposed amendments to the Decision's version of pSWLP

⁶⁴ Kirk EIC dated 15 February 2019, at [55]

resource consent applications and preparing or considering Farm Environmental Management Plans; and

3. ~~decision makers generally~~ not granting resource consents for additional dairy farming of cows or additional intensive winter grazing where contaminant losses will increase as a result of the proposed activity.

Policy 6 – Gleyed, ~~Bedrock/Hill Country and Lignite-Marine Terraces~~

In the Gleyed, ~~Bedrock/Hill Country and Lignite-Marine Terraces~~ physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

1. *requiring implementation of good management practices or best practicable options to avoid as far as practicable, ~~manage adverse effects on water quality from contaminants entering~~ water transported via artificial drainage, and overland flow where relevant; and*
2. *~~having particular regard to~~ avoiding as far as practicable, adverse effects on water quality from contaminants transported via artificial drainage, and overland flow where relevant when assessing resource consent applications and preparing or considering Farm Environmental Management Plans.*
3. *managing agricultural activities that may contaminate water to apply the best practicable option to avoid contaminants entering water via overland flow.*

Policy 7 –Bedrock/Hill Country

In the Bedrock/Hill Country physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

1. *requiring implementation of good management practices or the best practicable option, to avoid as far as practicable, adverse effects on water quality from contaminants entering water transported via artificial drainage, and overland flow where relevant; and*
2. *avoiding as far as practicable, adverse effects on water quality from contaminants transported via artificial drainage, and*

overland flow where relevant when assessing resource consent applications and preparing or considering Farm Environmental Management Plans.

3. managing agricultural activities that may contaminate water to apply the best practical option to avoid contaminants entering water via overland flow and artificial drainage.

Policy 8 – Lignite-Marine Terraces

In the Lignite-Marine Terraces physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

1. requiring implementation of good management practices or the best practicable option to avoid as far as practicable, adverse effects on water quality from contaminants entering water transported via artificial drainage, and overland flow where relevant; and
2. avoiding as far as practicable adverse effects on water quality from contaminants transported via artificial drainage, and overland flow where relevant when assessing resource consent applications and preparing or considering Farm Environmental Management Plans.
3. managing agricultural activities that may contaminate water to apply the best practical option to avoid contaminants entering water via overland flow and artificial drainage.

Policy 9 – Old Maitava

In the Old Maitava physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

1. requiring implementation of good management practices or the best practicable option to avoid as far as practicable, manage adverse effects on water quality from contaminants entering water transported via deep drainage;
2. having particular regard to avoiding as far as practicable, adverse effects on water quality from contaminants transported

via deep drainage when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and

3. *decision makers generally not granting resource consents for additional dairy farming of cows or additional intensive winter grazing where contaminant losses will increase as a result of the proposed activity.*

Policy 10 – Oxidising

In the Oxidising physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

1. *requiring implementation of good management practices or the best practicable option to avoid as far as practicable, manage ~~adverse effects on water quality from contaminants entering water~~ transported via deep drainage, and overland flow and artificial drainage where relevant;*
2. ~~having particular regard to~~ *avoiding as far as practicable, adverse effects on water quality from contaminants transported via deep drainage, and overland flow and artificial drainage where relevant when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and*
3. *decision makers ~~generally~~ not granting resource consents for additional dairy farming of cows or additional intensive winter grazing where contaminant losses will increase as a result of the proposed activity.*
4. *managing agricultural activities that may contaminate water to apply the best practical option to avoid contaminants entering water via overland flow and artificial drainage.*

Policy 11 – Peat Wetlands

In the Peat Wetlands physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

1. *requiring implementation of good management practices or the best practical option to avoid as far as practicable, ~~manage~~ adverse effects on water quality from contaminants entering water transported via artificial drainage, deep drainage, and lateral drainage;*
2. *~~having particular regard to~~ avoiding as far as practicable, adverse effects on water quality from contaminants transported via artificial drainage, deep drainage, and lateral drainage when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and*
3. *decision makers ~~generally~~ not granting resource consents for additional dairy farming of cows or additional intensive winter grazing where contaminant losses will increase as a result of the proposed activity.*

Policy 12 – Riverine

In the Riverine physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

1. *requiring implementation of good management practices or the best practicable option to avoid as far as practicable, ~~manage~~ adverse effects on water quality from contaminants entering water transported via deep drainage, and overland flow where relevant;*
2. *~~having particular regard to~~ avoiding as far as practicable, adverse effects on water quality from contaminants transported via deep drainage, and overland flow where relevant when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and*
3. *decision makers ~~generally~~ not granting resource consents for additional dairy farming of cows or additional intensive winter grazing where contaminant losses will increase as a result of the proposed activity.*

4. managing agricultural activities that may contaminate water to apply the best practical option to avoid contaminants entering water via overland flow.

Policy 12A – Improved physiographic zone information

Where site specific information is available that better identifies or delineates the relevant physiographic zones or contaminant loss pathways for a landholding or site, that information must be taken into account when undertaking activities, preparing Farm Environmental Management Plans or when determining resource consent applications for that landholding or site.

Policy 45 and Policy 47 (FMU Policies)

94. Policies 45 and 47 of the decision's version of the pSWLP read⁶⁵:

Policy 45 – Priority of FMU values, objectives, policies and rules

In response to Ngāi Tahu and community aspirations and local water quality and quantity issues, FMU sections may include additional catchment-specific values, objectives, and policies, values and attributes, rules and limits which ~~These FMU objectives and policies~~ will be read and considered together with the Region-wide Objectives and Region-wide Policies. Any ~~policy provision~~ on the same subject matter in the relevant FMU section of this Plan prevails over the relevant ~~policy provision~~ within ~~this~~ the Region-wide Objectives and Regional Region-wide Policy Policies sections, unless it is explicitly stated to the contrary.

As the FMU sections of this Plan are developed in a specific geographical area, FMU sections will not make any changes to the Region-wide Objectives or Region-wide Policies, and ~~will not deviate from the structure and methodology outlined in these Process Policies~~.

⁶⁵ Note: any underlining or strikethrough is from the Decision's version of the pSWLP

Note: As the FMU sections are developed in a specific geographical area, it is It would be unfair if changes are made to Region-wide objectives and policies, which apply in other parts of Southland, without the involvement of those wider communities.

Policy 47 – FMU processes

The FMU sections will:

1. ~~establish freshwater~~ identify values and establish freshwater objectives for each Freshwater Management Unit, including where appropriate at a catchment or sub-catchment level, catchment, having particular regard to the national significance of Te Mana o te Wai, and any other values developed in accordance with Policies CA1-CA4 and Policy D1 of the National Policy Statement for Freshwater Management 2014 (as amended in 2017); and
 2. *set water quality and water quantity limits and targets to achieve the freshwater objectives; and*
 3. *set methods to phase out any over-allocation, within a specified timeframe; and*
 4. *assess water quality and quantity taking into account ~~based on~~ Ngāi Tahu indicators of health.*
95. From a planning perspective, the National Objectives Framework (NOF) under section CA of the NPSFM (refer to Appendix 2) provides an approach to establish freshwater objectives.
96. However, I agree with Mr Farrell⁶⁶ that “*while the policy direction in the RPS and NPSFM refers to the NOF process, the NOF process is not the only process.*”
97. I agree with Mr Farrell⁶⁷ and Mr McCallum-Clark⁶⁸ that the FMU processes should “*develop local water quality and quantity limits and targets and freshwater objectives, based on the identification of local*

⁶⁶ Farrell EiC dated 17 February 2019 at [167]

⁶⁷ Farrell EiC dated 17 February 2019 at [164-166]

⁶⁸ McCallum-Clark EiC dated 14 December 2018 at [241]

values and uses. This is within a clear framework established by the NPS-FM, RPS and the pSWLP of maintaining water quality and improving it where it is overallocated and reducing any water quantity over allocation.”

98. I agree with Mr Farrell that the NOF has compulsory national values (“ecosystem health” and “human health for recreation”), and this allows for freshwater objectives to be set now in the pSWLP, particularly as Region-wide objectives and Region-wide policies.
99. This would support the higher order planning framework such as the purpose of the RMA, and implement the NPSFM including Objectives A1-A4, Policy 21⁶⁹ of the NZCPS, and the RPS (for example, but not limited to, Policy WQUAL.5). This would also support the intent for the direction of the pSWLP itself to “maintain” water quality.
100. Region-wide freshwater numeric outcomes from the NPSFM can be applied now, which, if met, will protect ecosystem health as required by the higher order planning framework.

⁶⁹ **Policy 21 Enhancement of water quality**

Where the quality of water in the coastal environment has deteriorated so that it is having a significant adverse effect on ecosystems, natural habitats, or water based recreational activities, or is restricting existing uses, such as aquaculture, shellfish gathering, and cultural activities, give priority to improving that quality by:

- (a) identifying such areas of coastal water and water bodies and including them in plans;*
- (b) including provisions in plans to address improving water quality in the areas identified above;*
- (c) where practicable, restoring water quality to at least a state that can support such activities and ecosystems and natural habitats;*
- (d) requiring that stock are excluded from the coastal marine area, adjoining intertidal areas and other water bodies and riparian margins in the coastal environment, within a prescribed time frame; and*
- (e) engaging with tangata whenua to identify areas of coastal waters where they have particular interest, for example in cultural sites, wāhi tapu, other taonga, and values such as mauri, and remedying, or, where remediation is not practicable, mitigating adverse effects on these areas and values.*

101. I consider it is appropriate to include region-wide freshwater numeric attributes from the NPSFM in the pSWLP as bottom lines now, and not wait until the FMU processes have been completed. The intent of the pSWLP is to 'hold the line' in terms of water quality, and clearer guidance on what this means is required for both the Plan user and the decision-maker.

Recommendation

102. I recommend that Policies 45 and 47 are amended as follows⁷⁰:

Policy 45 – Priority of FMU values, objectives, policies and rules

In response to Ngāi Tahu and community aspirations and local water quality and quantity issues, FMU sections may include additional catchment-specific values, objectives, policies, ~~values and attributes~~, rules and limits which will be read and considered together with the Region-wide Objectives and Region-wide Policies. Any provision on the same subject matter in the relevant FMU section of this Plan prevails over the relevant provision within the Region-wide Objectives and Region-wide Policy sections, unless it is explicitly stated to the contrary the provision in the relevant FMU Section of this Plan is less protective of water quality, water quantity or aquatic ecology than the Region-wide Objectives and Region-wide Policies.

As the FMU sections of this Plan are developed in a specific geographical area, FMU sections will not make any changes to the Region-wide Objectives or Region-wide Policies.

Note: It would be unfair if changes are made to Region-wide objectives and policies, which apply in other parts of Southland, without the involvement of those wider communities.

Policy 47 – FMU processes

⁷⁰ Note: any underlining or strikethrough are my proposed amendments to the Decision's version of pSWLP

The FMU sections will support the implementation of Region-wide Objectives by:

1. *identifying values and establishing specific freshwater objectives for each Freshwater Management Unit, including where appropriate at a catchment or sub-catchment level, having particular regard to the national significance of Te Mana o te Wai, and any other values developed in accordance with Policies CA1-CA4 and Policy D1 of the National Policy Statement for Freshwater Management 2014 (as amended in 2017); and*
2. *set water quality and water quantity limits and targets to achieve the Region-wide and specific freshwater objectives; and*
3. *set methods to phase out any over-allocation, within a specified timeframe; and*
4. *assess water quality and quantity taking into account Ngāi Tahu indicators of health.*

Policy 46 (FMU Policy)

103. Policy 46 of the decision's version of the pSWLP reads⁷¹:

Policy 46 – Identified FMUs

The FMU Sections of this Plan are based on the following identified Freshwater Management Units for Southland, as shown on Map Series 6 7: Freshwater Management Units:

- *Fiordland and the islands;*
- *Aparima;*
- *Mataura;*
- *Ōreti; and*
- *Waiau.*

⁷¹ Note: any underlining or strikethrough is from the Decision's version of the pSWLP

104. The pSWLP is not a prioritisation tool for which and when an FMU is to be developed. I note that in the revised Progressive Implementation Programme (PIP), Waituna is part of the Maituna FMU.
105. I note that the PIP under Policy E1 of the NPSFM (refer to Appendix 2) does not provide a prioritisation framework for when FMUs are to be notified as a plan change. The PIP only says that *“it is to be completed by no later than 31 December 2025”*:
106. The revised PIP (see Appendix 1) implies that FMU’s will occur as a single plan change in the future – to be notified by 2022 and operative by 2025. I note that the earlier November 2015 version of Southland’s PIP did provide different timeframes for the processes of the various FMUs and that *“Plan change(s) for all FMUs to be notified by December 2025”*.
107. There is no prioritisation of the five identified FMUs under Policy 46 nor within the revised PIP. In my opinion, from a planning perspective, it is not for the pSWLP to provide any such prioritisation of the FMU timeframes, or any sub-catchments within any of those FMUs. This is not what is required by the NPSFM and it is the PIP process where possibly such timeframes could be reviewed or prioritised.
108. However, the values of Waituna Lagoon, particularly with respect to those recognised under the Ramsar Convention as a wetland of international importance as discussed by Mr Rance⁷² and Ms McArthur⁷³, suggests that this catchment would be suited to be identified as a FMU in Policy 46. I agree with Mr Farrell’s⁷⁴ additional arguments and summation of the evidence, that identifying Waituna Lagoon as being a separate FMU would give effect to the higher order planning documents of Policy 21 of the NZCPS and Policy WQUAL.5 in the RPS.

Recommendation

109. I recommend that Policy 46 is amended to include Waituna as a standalone FMU and amend map series 7 accordingly.

⁷² Rance EIC dated 1 March 2019 at [45]

⁷³ mcArthur, EIC dated 15 February 2019 at [97-101]

⁷⁴ Farrell EIC dated 19 February 2019 at [178-179]

Conclusion

110. I conclude that the Objectives and Policies relating to the Physiographic Zones and FMUs should be amended to provide clarity and direction for the decision-makers and Plan users to 'hold the line' on water quality as intended by the pSWLP while the localised NOF processes are completed.
111. I recommend a number of other amendments to Objectives and Policies of the pSWLP, as set out in this statement of evidence.



Linda Elizabeth Kirk

1 March 2019

Appendix 1: Southland Regional Council's Revised Progressive Implementation Programme (PIP)

(Source: <http://waterandland.es.govt.nz/about/progressive-implementation-programme> as at 28 February 2019)

Progressive Implementation Programme

Pursuant to Policy E1 of the National Policy Statement for Freshwater Management 2014 (amended 2017) (the NPS-FM), Environment Southland gives public notice of its revised Progressive Implementation Programme to fully implement the NPS-FM, by establishing freshwater objectives and setting limits, by 31 December 2025.

Environment Southland notified an earlier version of its Progressive Implementation Programme in November 2015. Since that time, both the NPS-FM and the process by which Environment Southland proposes to implement it have changed. Environment Southland, in partnership with Te Ao Marama Incorporated (as the environmental arm of Ngāi Tahu Ki Murihiku), will be working with the communities of Southland to implement the NPS-FM as part of its People, Water and Land Programme.

The People, Water and Land Programme is underpinned by preparatory work evaluating and developing a model of Southland's economy and a science programme evaluating land use inputs, fluxes and flows, ecosystem health and research reports. Together this work has assisted in developing:

- an understanding of the history and connections within Southland's economy, and an economic model for the region capable of testing the socio-economic impacts of limits established under the NPS-FM; and
- a strong conceptual understanding of the functioning of natural systems within Southland, which will provide the spatial and temporal context for community engagement and better resource management.

In addition, Council has developed, notified and held hearings on the proposed Southland Water and Land Plan to better manage land use intensification issues and prevent any further decline in water quality. Council has also worked closely with farmers, including the provision of land sustainability advice, such as wintering, nutrient management and riparian planting.

The purpose of the revised Progressive Implementation Programme is to set out the tasks, in stages, to implement the NPS-FM by 31 December 2025. These stages are summarised in the table below.

Stage	Process	Timeline
Communication and engagement	Communicate programme goals, objectives and activities. Engage our communities and businesses in robust discussions about our freshwater.	Underway and ongoing through to 2025.
Ongoing freshwater improvement initiatives – ‘Action on the ground’.	Supporting, facilitating and leading on-ground activities that change land use practices to improve freshwater.	Underway and ongoing beyond 2025.
	Projects are underway in the Waituna, Aparima and Maitara catchments.	
Development of regional targets (swimmability)	Develop and publicly notify final regional (swimmability) targets.	Final regional targets notified prior to 31 December 2018.
Develop freshwater values, targets and objectives.	<p>Through community engagement raise awareness of freshwater and the challenges facing it.</p> <p>Determine the community’s values and objectives using a national consistent process for formulating freshwater objectives, for all Freshwater Management Units (FMU’s), in accordance with the National Objectives Framework set out in the NPS-FM.</p> <p>Additional values will also be integrated through linking in to the ongoing Murihiku Cultural Monitoring Project.</p>	<p>Underway – an environmental health baseline information is being collated and an inventory of known freshwater values has been compiled.</p> <p>The process to determine freshwater values, targets and objectives for each FMU and the region will occur in stages, beginning in November 2018.</p>
Regional forum	Establish a Southland forum made up of representatives from across the region to act in an advisory role for Council. The forum will advise Council via an agreed policy proposal, of the preferred objectives, limits, methods and timeframes required to achieve the community’s values and objectives for freshwater.	Agreed policy position to Council by 2022.
The proposed Southland Water and Land Plan (pSWLP)	<p>The pSWLP was notified in June 2016 and was developed to prevent further degradation of freshwater quality in Southland while limits are developed through the People, Water and Land Programme.</p> <p>The pSWLP implements some objectives and policies from the NPS-FM and outlines the basic process for the future inclusion of five FMU sections of the pSWLP as a future plan change.</p>	Underway – resolution of appeals is subject to court process. The pSWLP could be fully operative as early as the end of 2019.

Stage	Process	Timeline
Southland Water and Land Plan – plan change	The pSWLP will need to be amended to include freshwater objectives, limits and targets developed through the community and council process for all FMUs. It must also include policies and methods to achieve those limits, in accordance with the NPS-FM. Components of this are highlighted above.	A Plan Change for freshwater objectives, limits and targets in Southland (that includes all Freshwater Management Units) to be notified by 2022 and operative by 2025.

Reporting on the staged Progressive Implementation Programme will occur annually in the Council's Annual Report prepared under the Local Government Act 2002.

Information about the National Policy Statement for Freshwater Management 2014 and Environment Southland's Progressive Implementation Programme can be sourced on the Council's website www.waterandland.es.govt.nz or by phoning Environment Southland's offices on 0800 76 88 45.

Appendix 2: Excerpts from Relevant Planning Documents

National Policy Statement for Freshwater Management 2014 (as amended 2017) (NPSFM)

CA. National Objectives Framework

Objective CA1

To provide an approach to establish freshwater objectives for national values, and any other values, that:

- a) is nationally consistent; and*
- b) recognises regional and local circumstances.*

Policy CA1

By every regional council identifying freshwater management units that include all freshwater bodies within its region.

Policy CA2

By every regional council, through discussion with communities, including tangata whenua, applying the following processes in developing freshwater objectives for all freshwater management units:

- a) considering all national values and how they apply to local and regional circumstances;*
- b) identifying the values for each freshwater management unit, which*
 - i. must include the compulsory values; and*
 - ii. may include any other national values or other values that the regional council considers appropriate (in either case having regard to local and regional circumstances); and*

...”

“E. Progressive implementation programme

Policy E1

- a) *This policy applies to the implementation by a regional council of a policy of this national policy statement.*
- b) *Every regional council is to implement the policy as promptly as is reasonable in the circumstances, and so it is fully completed by no later than 31 December 2025.*
- ba) *A regional council may extend the date in Policy E1(b) to 31 December 2030 if it considers that:*
 - i. *meeting that date would result in lower quality planning; or*
 - ii. *it would be impracticable for it to complete implementation of a policy by that date.*
- c) *Where a regional council is satisfied that it is impracticable for it to complete implementation of a policy fully by 31 December 2015, the council may implement it by a programme of defined time-limited stages by which it is to be fully implemented by 31 December 2025 or 31 December 2030 if Policy E1(ba) applies.*
- d) *Any programme of time-limited stages is to be formally adopted by the council by 31 December 2015 and publicly notified.*
- e) *Where a regional council has adopted a programme of staged implementation, it is to publicly report, in every year, on the extent to which the programme has been implemented.*
- f) *Any programme adopted under Policy E1 (c) of the National Policy Statement for Freshwater Management 2011 or under E1(c) of the National Policy Statement for Freshwater Management 2014 by a regional council is to be reviewed, revised if necessary, and formally adopted by the regional council by 31 December 2018, and publicly notified.*
- g) *...”*

Appendix 3: Summary of Recommended Amendments

Note: Any underlining or strikethrough are my proposed amendments to the Decision's version of pSWLP.

1. Amend Objective 6 as follows:

Objective 6

There is no reduction in the ~~overall~~ quality of freshwater, and water in estuaries and coastal lagoons, by:

- (a) maintaining the quality of water in waterbodies, estuaries and coastal lagoons, where the water quality is not degraded; and*
- (b) improving the quality of water in waterbodies, estuaries and coastal lagoons, that have been degraded by human activities.*

2. Amend Objective 7 as follows:

Objective 7

Any further over-allocation of freshwater (water quality and quantity) is avoided and any existing over-allocation is phased out in accordance with freshwater objectives, freshwater quality limits and timeframes established under Freshwater Management Unit processes, or earlier where the resource is being used to a point where a region-wide freshwater numeric outcome(s) are no longer being met.

3. Combine and amend Objectives 9 and 9A as follows:

Objective 9

(a) The quantity of water in surface waterbodies is managed so that aquatic ecosystem health, life-supporting capacity, outstanding natural features and landscapes, recreational values, and natural character of waterbodies and their margins are safeguarded.

~~Objective 9A~~

(b) Surface water is sustainably managed to support the reasonable needs of people and communities to provide for their social, economic and cultural wellbeing.

4. Amend Objective 9B as follows:

Objective 9B

The effective development, operation, maintenance and upgrading of Southland's regionally significant, nationally significant and critical infrastructure is enabled, recognised and provided for.

5. Amend Objective 10 as follows:

Objective 10

The national importance of the existing Manapōuri hydro-electric generation schemes, including the Manapōuri hydro-electric generation scheme in the Waiau catchment, is recognised and provided for, ~~recognised in any resulting flow and level regime,~~ ~~and their structures are considered as part of the existing environment.~~

6. Combine and amend Objectives 13, 13A and 13B as follows:

Objective 13

Enable the use and development of land and soils ~~to support the economic, social, and cultural wellbeing of the region,~~ provided:

Objective 13A

(a) The quantity, quality and structure of soil resources are maintained and managed to avoid irreversible degradation from not irreversibly degraded through land use activities or discharges to land;

Objective 13B

(b) The discharge of contaminants to land or water that have significant adverse effects on human health are avoided.

(c) adverse effects on ecosystems (including indigenous biological diversity and integrity of habitats), amenity values,

recreation and cultural values are avoided, remedied or mitigated to ensure these values are safeguarded or enhanced.

7. Amend Objective 14 as follows:

Objective 14

The range and diversity of indigenous ecosystem types and habitats within dryland environments, rivers, estuaries, wetlands and lakes, including their margins, and their life-supporting capacity are maintained and enhanced.

8. Amend Objective 17 as follows:

Objective 17

Preserve the The natural character values of wetlands, rivers and lakes and their margins, including channel and bed form, rapids, seasonable variable flows and natural habitats, are protected and protect them from inappropriate use and development.

9. Delete Objective 18:

~~Objective 18~~

~~All activities operate in accordance with “good management practice” or better to optimise efficient resource use, safeguard the life supporting capacity of the region’s land, and soils, and maintain or improve the quality and quantity of the region’s water resources.~~

If not deleted, then amend, or amend with like effect, Objective 18 and the definition of “Good Management Practices” as follows:

Objective 18

All activities operate in accordance with “good environmental management practice” or “best practicable option”, or better, to optimise efficient resource use, safeguard the life supporting capacity of the region’s land, and soils, and maintain or improve the quality and quantity of the region’s water resources.

Good management practices

~~include, but not limited to, means the practices described in the documents entitled “Good Management Practices” relating to water quality – dated XXXX. factsheets available on the Southland Regional Council’s webpage.~~

10. Amend Physiographic Zone Policies 4-12 to reflect the following:

- a. Including the physiographic maps as part of the pSWLP;
- b. Separating Policy 6 into three separate policies;
- c. Direct land uses which may contaminate water to avoid as far as practicable, contaminates entering water by promoting the uptake of the Best Practicable Option; and
- d. Direct decision-makers to avoid containments entering water by “not” granting resource consent for activities which are known to pose a high risk to water quality within each respective physiographic zone.

Amend Physiographic Zone Policies 4-12, or amend with like affect, as follows:

Physiographic Zone Policies

Policy 4 – Alpine

In the Alpine physiographic zone, avoid, remedy, or mitigate erosion and adverse effects on water quality from contaminants, by:

1. *requiring implementation of good management practices or the best practicable option to avoid as far as practicable manage erosion and ~~adverse effects on water quality from contaminants entering water~~ transported via overland flow;*
2. *~~having particular regard to~~ avoiding as far as practicable adverse effects of contaminants transported via overland flow when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and*

3. *prohibiting dairy farming and intensive winter grazing, and decision makers should generally not granting resource consents for cultivation where contaminants may enter waterbodies.*

Policy 5 – Central Plains

In the Central Plains physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

1. *requiring implementation of good management practices or the best practicable option to avoid as far as practical manage ~~adverse effects on water quality from contaminants entering water~~ transported via artificial drainage and deep drainage;*
2. ~~having particular regard to~~ *avoiding as far as practicable adverse effects on water quality from contaminants transported via artificial drainage and deep drainage when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and*
3. *decision makers ~~generally not granting resource consents for additional dairy farming of cows or additional intensive winter grazing where contaminant losses will increase as a result of the proposed activity.~~*

Policy 6 – ~~Gleyed, Bedrock/Hill Country and Lignite-Marine Terraces~~

In the ~~Gleyed, Bedrock/Hill Country and Lignite-Marine Terraces~~ physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

1. *requiring implementation of good management practices or best practicable options to avoid as far as practicable, manage ~~adverse effects on water quality from contaminants entering water~~ transported via artificial drainage, and overland flow where relevant; and*
2. ~~having particular regard to~~ *avoiding as far as practicable, adverse effects on water quality from contaminants transported via artificial drainage, and overland flow where relevant when assessing resource consent applications and preparing or considering Farm Environmental Management Plans.*

3. managing agricultural activities that may contaminate water to apply the best practicable option to avoid contaminants entering water via overland flow.

Policy 7 –Bedrock/Hill Country

In the Bedrock/Hill Country physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

1. requiring implementation of good management practices or the best practicable option, to avoid as far as practicable, adverse effects on water quality from contaminants entering water transported via artificial drainage, and overland flow where relevant; and
2. avoiding as far as practicable, adverse effects on water quality from contaminants transported via artificial drainage, and overland flow where relevant when assessing resource consent applications and preparing or considering Farm Environmental Management Plans.
3. managing agricultural activities that may contaminate water to apply the best practical option to avoid contaminants entering water via overland flow and artificial drainage.

Policy 8 –Lignite-Marine Terraces

In the Lignite-Marine Terraces physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

2. requiring implementation of good management practices or the best practicable option to avoid as far as practicable, adverse effects on water quality from contaminants entering water transported via artificial drainage, and overland flow where relevant; and
2. avoiding as far as practicable adverse effects on water quality from contaminants transported via artificial drainage, and overland flow where relevant when assessing resource consent applications and preparing or considering Farm Environmental Management Plans.

3. managing agricultural activities that may contaminate water to apply the best practical option to avoid contaminants entering water via overland flow and artificial drainage.

Policy 9 – Old Matura

In the Old Matura physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

1. *requiring implementation of good management practices or the best practicable option to avoid as far as practicable, manage adverse effects on water quality from contaminants entering water transported via deep drainage;*
2. ~~*having particular regard to avoiding as far as practicable, adverse effects on water quality from contaminants transported via deep drainage when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and*~~
3. *decision makers generally not granting resource consents for additional dairy farming of cows or additional intensive winter grazing where contaminant losses will increase as a result of the proposed activity.*

Policy 10 – Oxidising

In the Oxidising physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

1. *requiring implementation of good management practices or the best practicable option to avoid as far as practicable, ~~manage adverse effects on water quality from contaminants entering water~~ transported via deep drainage, and overland flow and artificial drainage where relevant;*
2. ~~*having particular regard to avoiding as far as practicable, adverse effects on water quality from contaminants transported via deep drainage, and overland flow and artificial drainage where relevant when assessing resource consent applications*~~

and preparing or considering Farm Environmental Management Plans; and

3. decision makers ~~generally~~ not granting resource consents for additional dairy farming of cows or additional intensive winter grazing where contaminant losses will increase as a result of the proposed activity.

4. managing agricultural activities that may contaminate water to apply the best practical option to avoid contaminants entering water via overland flow and artificial drainage.

Policy 11 – Peat Wetlands

In the Peat Wetlands physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

2. requiring implementation of good management practices or the best practical option to avoid as far as practicable, manage ~~adverse effects on water quality from contaminants entering~~ water transported via artificial drainage, deep drainage, and lateral drainage;

2. ~~having particular regard to~~ avoiding as far as practicable, adverse effects on water quality from contaminants transported via artificial drainage, deep drainage, and lateral drainage when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and

3. decision makers ~~generally~~ not granting resource consents for additional dairy farming of cows or additional intensive winter grazing where contaminant losses will increase as a result of the proposed activity.

Policy 12 – Riverine

In the Riverine physiographic zone, avoid, remedy, or mitigate adverse effects on water quality from contaminants, by:

2. *requiring implementation of good management practices or the best practicable option to avoid as far as practicable, manage adverse effects on water quality from contaminants entering water transported via deep drainage, and overland flow where relevant;*
2. *~~having particular regard to~~ avoiding as far as practicable, adverse effects on water quality from contaminants transported via deep drainage, and overland flow where relevant when assessing resource consent applications and preparing or considering Farm Environmental Management Plans; and*
3. *decision makers ~~generally~~ not granting resource consents for additional dairy farming of cows or additional intensive winter grazing where contaminant losses will increase as a result of the proposed activity.*
4. *managing agricultural activities that may contaminate water to apply the best practical option to avoid contaminants entering water via overland flow.*

Policy 12A – Improved physiographic zone information

Where site specific information is available that better identifies or delineates the relevant physiographic zones or contaminant loss pathways for a landholding or site, that information must be taken into account when undertaking activities, preparing Farm Environmental Management Plans or when determining resource consent applications for that landholding or site.

11. Amend Policies 45 and 47 as follows:

Policy 45 – Priority of FMU values, objectives, policies and rules

In response to Ngāi Tahu and community aspirations and local water quality and quantity issues, FMU sections may include additional catchment-specific values, objectives, policies, ~~values and~~ attributes, rules and limits which will be read and considered together with the Region-wide Objectives and Region-wide Policies. Any-provision on the same subject matter

in the relevant FMU section of this Plan prevails over the relevant provision within the Region-wide Objectives and Region-wide Policy sections, unless it is ~~explicitly stated to the contrary~~ the provision in the relevant FMU Section of this Plan is less protective of water quality, water quantity or aquatic ecology than the Region-wide Objectives and Region-wide Policies.

As the FMU sections of this Plan are developed in a specific geographical area, FMU sections will not make any changes to the Region-wide Objectives or Region-wide Policies.

Note: It would be unfair if changes are made to Region-wide objectives and policies, which apply in other parts of Southland, without the involvement of those wider communities.

Policy 47 – FMU processes

The FMU sections will support the implementation of Region-wide Objectives by:

- 5. identifying values and establishing specific freshwater objectives for each Freshwater Management Unit, including where appropriate at a catchment or sub-catchment level, having particular regard to the national significance of Te Mana o te Wai, and any other values developed in accordance with Policies CA1-CA4 and Policy D1 of the National Policy Statement for Freshwater Management 2014 (as amended in 2017); and*
- 6. set water quality and water quantity limits and targets to achieve the Region-wide and specific freshwater objectives; and*
- 7. set methods to phase out any over-allocation, within a specified timeframe; and*
- 8. assess water quality and quantity taking into account Ngāi Tahu indicators of health.*

12. Amend Policy 46 to include Waituna as a standalone FMU and amend map series 7 accordingly.