

Before the Freshwater Hearings Panel convened by the Chief Freshwater Commissioner

In the matter of Freshwater parts of the Proposed Otago Regional Policy Statement 2021

Summary of Evidence of Ben Farrell on behalf of Otago and Central South Island Fish and Game Councils

30 August 2023

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Introduction

- 1 My full name is Ben Farrell. I prepared a statement of evidence on the Freshwater Parts of the Proposed Otago Regional Policy Statement 2021 (**pORPS**) dated 28 June 2023 (**Freshwater EiC**), rebuttal evidence dated 17 July 2023, and supplementary evidence dated 22 August 2023. My qualifications and experience are set out in my EiC. All my evidence draws on previous evidence I have provided in respect of the non-freshwater provisions.

State of freshwater

- 2 Underpinning my evidence is my understanding that the state of freshwater environment throughout Otago is degraded in places, with a lot of actual or likely overallocation. There has been numerous evidence presented documenting the poor state of health of parts of the Otago freshwater environment.
- 3 I am aware based on my experience and living in Otago that there are numerous waterbodies that are not likely to be degraded or overallocated, for example in parts of the Upper Lakes Rohe.

Te Mana o Te Wai

- 4 I stand by what I have previously said about my understanding of the fundamental concept of TMOTW.
- 5 My simple understanding of TMOTW, including from its explanations in the NPSFM 2020, is that we need to put the needs of the waterbody ahead of people's needs, because only when a waterbody is in a good state of health can it be utilised sustainably. This is encapsulated by acknowledging and protecting the mauri of water.
- 6 If people continue to prioritise human needs over the water's needs (the status quo) then water will continue to degrade, risking tipping points, and making matters worse not better for current and future generations. On this basis a paradigm shift is required to implement TMOTW.

Achieving and protecting a state of good health

- 7 I maintain an appropriate outcome for all waterbodies is to achieve and then protect a state of good health. This will require restoration of many waterbodies in the region, including natural wetlands.

Restoring and protecting habitats of trout and salmon

- 8 I maintain it is important and appropriate to restore and protect habitats of trout and salmon, provided this is consistent with the restoration and protection of habitats of indigenous species. I recommend amending LF-FW-P7 and LF-FW-M8A to provide a similar directive for the habitats of trout and salmon as for indigenous species (“protecting and restoring”, not “sustaining”).

LF-WAI-O1: Recognising and providing for people’s connections with wai

- 9 Without derogating from the special relationship of Māori and wai, Objective LF-WAI-O1 should recognise that all people have significant connections with wai. I maintain my support for inserting the clause *“People are enabled to use, enjoy and connect meaningfully with waterbodies to further their health and well-being, including through recreation and harvesting food”*. I do not understand why this clause should not form part of a region-wide objective (or an objective for all FMUs).

Visions

- 10 It is clear aspirations of parts of the Otago community are not reflected in the visions. They should be, as this will accord with the direction under s3.3(3)(c) of the NPSFM to *“express what communities and tangata whenua want the FMU, part of the FMU, or catchment to be like in the future”*. I note:
- (a) There should be no harm in adding to the visions to reflect what respective members of the community aspire to, provided the clauses can be applied in a manner that implements the priorities to be afforded by applying the concepts of TMOTW and Ki uta ki tai.
 - (b) I support adding clauses to the visions, including those sought by Fish and Game, which to me seem entirely appropriate for all the FMUs. I am not aware of any party raising significant concerns with any of the additional vision statements sought by Fish and Game.
 - (c) I maintain that hydro-electricity generation should not be “provided for” without qualification. There is no statutory policy direction or other obligation to “provide for” the upgrading of existing hydro schemes without and subject to consideration of the impact on freshwater including how such impacts affect other people in the community.
- 11 It has become apparent that it may not be achievable to restore all waterbodies in the region to a good state of health by 2040, particularly in

respect of lag times as summarised by Mr Paragreen. To help address this risk, I support amending the vision timeframes to allow environmental outcomes to be achieved after 2040 if all behavioural changes required to meet the environmental outcomes are implemented by 2040.

12 Based on the evidence before us there is some uncertainty around what may be achievable. This is unavoidable. In the absence of robust evidence to the contrary I maintain a 2040 timeframe is a suitable aspiration. I note that 2040 will be:

- (a) 49 years after the introduction of the RMA (which effectively sought among other things to ensure environmental effects from land use on the natural environment were avoided, remedied or mitigated),
- (b) 29 years after the NPSFM was introduced,
- (c) 30 years after PC6 provided some regulatory intervention on land use to shed light on the water quality issues in the region,
- (d) 35 years since the Kai Tahu Ki Otago Natural Resource Management Plan 2005 flagged degradation and overallocation (for example refer 9.2.2. and 9.4.2).

13 I would further add that we've received evidence, for example from Mr Aspinall, outlining how some community groups have taken the effort over the last decade or so to rethink and change their practices to be more environmentally sound. From my understanding of the upper lakes rohe, including the matukituki valley area, I would have thought all the region-wide visions I recommend would be easily achievable by 2040, and suggest that some of them are probably already achieved.

Natural Wetlands v natural inland wetlands

14 I maintain it is appropriate to protect natural wetlands, and protection through restoration/enhancement of wetland values should be recognised.

15 On reflection of respective discussions with Ms Boyd, Mr Brass, Ms McIntyre, Ms Bartlett, Mr Couper, Ms Coughlan, and Mr Paragreen, I have considered whether to use "ecosystem health" or "ecological integrity" in LF-FW-P9. I prefer utilising "ecosystem health" because, as I understand, it incorporates each of the factors in the "ecological integrity" definition under the NPS-IB and is known component of freshwater attributes provided for in the NPS-FM objective. Ecological integrity on the other hand is an unknown, especially in respect of its applicability to wetlands.

Conclusion

16 I support amending the RPS in response to the submissions, including the submission by Fish & Game. The attached provisions, as I recommend them, will be more appropriate compared to the latest s42A version and compared to other recommendations that I have commented on in my EIC.

30 August 2023

Ben Farrell