

### Minute 10 of Freshwater Hearing Panel

1. At the hearing on Monday 18 September, 2023 Counsel for Otago Regional Council formally confirmed orally to the Panel that ORC accepted a proposition from the Panel that the effects management hierarchies in the NPS FM and NPS IB were worded in such a manner in the respective relevant Appendices, that no practical difference arose in stringency between them.
2. That was because the phraseology for when '*no net loss and preferably a net gain*', (NPS FM), and '*net gain*', (NPS IB), were achieved respectively was the same. The test in each is when the values at the offset site " *...are equivalent to or exceed those being lost at the impact site.*"
3. As a consequence ORC's counsel advised that ORC s. 42A report writers would need to be able to reframe their reply responses affected by that considered concession. The Panel then orally directed that could be done to coincide with some other reply dates set for ORC by 26 September, 2023.
4. In the meantime the Panel has noticed other relevant issues relating to wetland definitions and wetland management issues upon which it seeks clarification from the ORC as part of that response by 26 September 2023.
5. They are as follows:
  - (a) In the 11 August 2023 FPI evidence of Ms. Boyd on the effects of the introduction of the NPS IB various amendments were proposed in green which do not appear on the Reply Report Version dated 15 September, 2023. The Panel needs certainty from ORC as to the position it is finally recommending on each of those differences which include:
    - (i) Deletion in green of sub-clauses (c) and (d) of the definition of Natural Wetland (which we observe appears not to have been coloured blue as part of the FPI.) This deletion does not appear in the Reply Report version.
    - (ii) A proposed new subclause (1) to LF-FW-P9 as to prevention of activities resulting in irreversible effects to a natural wetland – which again does not appear in the Reply Report version.
  - (b) LF-FW-P13A was amended to include 'natural inland wetlands', i.e. requiring the effects management hierarchy in that provision of the PORPS was to apply, (and again we note this provision was not coloured blue as the FPI), whereas the new recommended LF-FW-P9 (3) in the Reply version expressly provided that the effects management hierarchy that was recommended to apply to natural inland wetlands was the "effects management hierarchy (in relation to indigenous biodiversity)..."

Dated 20 September, 2023

Ron Crosby

Chair etc