DUNEDIN CITY COUNCIL | kaunihera a-rohe o Ōtepoti

3 November 2023

Otago Regional Council
By email to policy@orc.govt.nz

Kia ora,

DUNEDIN CITY COUNCIL FEEDBACK: DRAFT PROVISIONS FOR INCLUSION IN OTAGO REGIONAL COUNCIL'S PROPOSED LAND AND WATER REGIONAL PLAN

1. The Dunedin City Council (DCC) thanks the Otago Regional Council (ORC) for the opportunity to provide feedback on the draft provisions for inclusion in the proposed Land and Water Regional Plan (LWRP).

2. The DCC recognizes the issues facing the management of land and freshwater resources in Otago. The DCC also understands the substantial challenges associated with updating Otago's planning framework for land and freshwater via the proposed Otago Regional Policy Statement (pORPS) and the development of the new LWRP so that it:

    a. gives effect to Te Mana o te Wai and the objectives and policies of the National Policy Statement for Freshwater Management 2020 (NPS-FM); and

    b. adequately recognizes and provides for practicable management of urban three waters infrastructure and gives effect to the objectives and policies of the National Policy Statement for Urban Development 2020 (NPS-UD).

3. DCC has made submissions on the pORPS and participated in hearings on both the Freshwater Planning Instrument parts and non-Freshwater Planning Instrument parts of the pORPS. The DCC has appreciated the engagement of the pORPS hearings panel and looks forward to the panel's decision.

4. The DCC's detailed feedback on the draft LWRP provisions currently open for consultation is attached as Appendix A. The feedback provided in this submission covers similar matters to those previously addressed in DCC submissions and then evidence provided on the pORPS. It reflects the DCC's role as Otago's largest provider of three waters (drinking water, wastewater and stormwater) services to communities across Dunedin.

5. The DCC requests the ORC makes changes and incorporates additions to the draft LWRP provisions to ensure that they are set up so that where they impact the mandated operations of Otago's largest three waters service provider, this is done in a manner that:

    a. is consistent with the objectives and policy direction set out in the NPS-FM and the pORPS;

b. provides a pragmatic pathway for the improvement of the health of the water within the Dunedin & Coast and Taiari/Taieri Freshwater Management Units (FMU) that also enables three waters service providers to continue providing for the health needs of people in accordance with multiple statutory and regulatory requirements;

c. enables transition to new requirements in a timeframe that is as soon as practicable;

d. appropriately recognises that, with respect to Dunedin's three waters infrastructure, the optimal way to deliver the freshwater objectives of the pORPS is to facilitate a holistic and strategic approach to the planning, funding, delivery and operation of three waters infrastructure and services; and

e. with respect to the currently unspecified environmental standards that will be applied to Dunedin's urban watercourses and yet to be determined environmental flow limits in parts of the Taiari/Taieri FMU, that ORC progress the development of these standards and limits in close collaboration with DCC to make sure they are achievable in the context of other national policy direction on resource management (for example, the NPS-UD), and the broader statutory requirements on DCC as a three waters service provider.

6. The remainder of this document sets out background information on DCC three waters systems – including key statutory, regulatory, funding and other drivers and constraints, and strategic planning approach – and provides the DCC's feedback on:

   a. the draft wastewater management provisions;

   b. the draft stormwater management provisions;

   c. the draft beds of lakes and rivers provisions;

   d. the draft environmental flows and limits provisions, and associated provisions specific to the Taiari/Taieri and Dunedin & Coast Freshwater Management Units (FMU).

7. In addition to three waters matters, the DCC submission also addresses the proposed setback rules for forestry activities. The DCC supports the submission of City Forests Limited (a Council-Controlled Organisation owned by the DCC). The DCC recommends the ORC works with the forestry sector and other relevant experts to revise the LWRP proposals to:

   a. address the potential adverse impacts of the proposals on forestry operations and, more broadly, Otago's environment and economic performance, as highlighted in City Forests Limited's submission to the ORC; and

   b. ensure alignment with national environmental standards already in place to manage the environmental effects of plantation/commercial forestry.

8. The DCC wishes to work collaboratively with the ORC to give effect to the DCC's feedback. DCC staff are available to work through the feedback in detail with ORC staff.

9. The DCC would also welcome the opportunity to:

a. speak to this submission at a hearing if one is held; and

b. comment on a full draft LWRP when available, but prior to notification.

Kā mihi

Jules Radich
MAYOR OF DUNEDIN

DUNEDIN CITY COUNCIL | kaunihera a-rohe o Ōtepoti

Appendix A: Dunedin City Council detailed feedback: draft provisions for inclusion in Otago Regional Council's proposed Land and Water Regional Plan

BACKGROUND: DCC THREE WATERS SYSTEMS

1. The DCC provides drinking water, wastewater and stormwater (three waters) services to domestic and non-domestic users across Dunedin. The DCC's 3 Waters Group manages the delivery of these services.

2. The provision of well-managed drinking water, wastewater and stormwater services promotes the health and wellbeing of communities and the environment. These services are lifeline utilities and, as such, the infrastructure assets that enable them are regionally significant. This is recognized in the definition of 'Regionally Significant Infrastructure' included in the proposed Otago Regional Policy Statement (pORPS).

3. As one of New Zealand's earliest metropolitan centres, Dunedin's three waters infrastructure pre-dates that of other centres. Some assets are older than 150 years and still operate as essential components of the networks today.

4. The nature of Dunedin's growth over time has meant that large portions of three waters infrastructure assets were built over a short time period. Assets that were built at the same time generally require renewal at the same time, causing peaks in renewal costs.

5. Over 50% of the DCC's three waters systems assets are expected to reach the end of their useful life and require renewal by 2060. The DCC has determined that there is a need for $3.6 billion to be invested in three waters infrastructure to maintain current levels of service for the next 30 years. It is not possible to replace the entire system at once.

6. In addition to aging infrastructure, the DCC's ability to maintain current levels of service from its three waters systems faces challenges from the effects of climate change, population growth and rising energy and construction costs.

DCC three waters systems: legislative and regulatory drivers

7. As a territorial local authority, the DCC must adhere to legislative requirements designed to ensure it manages three waters infrastructure and services in a safe and environmentally friendly manner. In addition to the requirements of New Zealand's resource management system derived from the principles of the Treaty of Waitangi and the Resource Management Act 1991, the following legislative requirements are pertinent:

    a. the Local Government Act 2002 (LGA 2002) establishes the purpose of local government to:
        i. enable democratic local decision-making and action by, and on behalf of, communities; and

ii. promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

b. the Water Services Act 2021 (WSA 2021) sets out the duties of the DCC as a drinking water supplier, including the duties to supply safe drinking water, to comply with drinking water standards, to provide sufficient quantity of drinking water, and to prepare and implement a drinking water safety plan that includes a source water risk management plan. When exercising or performing a duty under the WSA 2021, the DCC must give effect to Te Mana o te Wai, as set out in clause 1.3 of the National Policy Statement for Freshwater Management 2020 (NPS-FM) to the extent that Te Mana o te Wai applies to the duty.

c. The Health and Safety at Work Act 2015 (HSWA 2015) sets out duties of the DCC to protect the health, safety and welfare of people working with DCC three waters systems.

8. In addition to regional planning documents made within the context of New Zealand's resource management system, local authorities are subject to resource management national direction. In the context of managing large municipal three waters systems like those managed by the DCC, the National Policy Statement for Urban Development 2020 (NPS-UD) and the NPS-FM are particularly pertinent.

9. The objectives of the NPS-UD include enabling all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future via well-functioning urban environments. The NPS-UD categorises Dunedin as a tier 2 urban environment, bringing into effect through district plans a range of provisions relating to the amount of development capacity required to be serviceable with infrastructure (including three waters infrastructure). Dunedin's 10-Year Plan 2021-31 provides for over $77 million of capital funding for three waters infrastructure to provide for growth to implement the NPS-UD.

10. The objective of the NPS-FM is to ensure that natural and physical resources are managed in accordance with the hierarchy of obligations in Te Mana o te Wai. The hierarchy of obligations gives first priority to the health and well-being of water bodies and freshwater ecosystems, second priority to the health needs of people (such as drinking water), and third priority to the ability of people and communities to provide for their social, economic and cultural well-being, now and in the future.

11. Considered together, there is a balance for council three waters infrastructure services providers to strike between the objectives and policies of the NPS-FM, which prioritise the health and well-being of water bodies and freshwater ecosystems, and the objectives, policies and other requirements of the NPS-UD and legislation such as the LGA 2002 and WSA 2021.

12. Balancing obligations such as protecting the environment while providing for urban growth to provide for communities' social, economic, and cultural wellbeing, and for their health and safety, now and into the future, can be complex.

DCC three waters systems: strategic drivers and performance measures

13. The DCC is committed to improving Dunedin's environment, including the quality of Dunedin's freshwater environments.

14. The DCC 3 Waters Strategic Direction Statement 2010-2060 sets out an integrated approach to the sustainable management of drinking water, wastewater and stormwater in Dunedin. The Strategic Direction Statement identifies seven key strategic priorities, including that the DCC will:

    a. meet the water needs of the city for the next 50 years from existing water sources;

    b. improve the quality of its stormwater and wastewater discharges to minimise impacts on the environment; and

    c. adopt an integrated approach to management of three waters and embrace the concept of kaitiakitaka.

15. Other key strategic priorities relate to adapting to climate change and population growth, maintaining service levels, and maintaining affordable services.

16. In 2016, the DCC adopted Te Ao Tūroa – The Natural World – Dunedin's Environment Strategy. Te Ao Tūroa takes a partnership approach to delivering on the city's environment ambitions, with stakeholders including the Otago Regional Council (ORC) and Kāi Tahu working together with the DCC to facilitate and secure a healthy environment now and into the future. Te Ao Tūroa identifies reducing wastewater overflows and reducing polluting discharges to land, air and water as actions the DCC will take to achieve a healthy environment in Dunedin.

17. The DCC tracks the performance of its three waters infrastructure and services against a range of regulatory requirements and performance measures, including mandatory performance measures established by the Department of Internal Affairs. These include, for example:

    a. Measures related to drinking water safety, drinking water aesthetic properties and pressure, and the efficient and sustainable use of water resources;

    b. Measures related to the impacts of stormwater services on the quality of the receiving environment, and the DCC's response to relevant service calls;

    c. Measures related to the impacts of wastewater services on the quality of the receiving environment, and the DCC's response to relevant service calls.

DCC three waters systems: funding

18. The DCC collects rates from its drinking water, wastewater and stormwater customers to fund the ongoing operational and capital expenditure required to provide those services. This is done in accordance with the DCC's Financial Strategy, which is set through the 10-year plan process every three years (and amended through annual plans if needed). The 2021-31

Financial Strategy sets limits on debt and rates rises. It recognises the competing tensions of affordability, maintaining assets and investing for the future.

DCC three waters systems: market delivery

19. The DCC has an extensive three waters capital delivery programme that includes renewing aging infrastructure and upgrading infrastructure to meet new standards and additional demand.

20. Delivery of capital projects requires capability and capacity in the local construction market (and supporting specialties). The DCC has been increasing its capital spend over time, supporting associated growth in the construction market.

21. Successive DCC 10-year plans have focused on replacing and renewing Dunedin's aging infrastructure. The 2018-28 10 Year Plan capital programme for the 3 Waters Group proposed a steadily increasing budget profile, off the back of a successful increase in annual capital delivery capacity from $19.3M to $36.6M over the three years to 2020/21.

22. Since 2021/22, the DCC has further enhanced its ability to deliver by establishing long term contracts with delivery partners aligned with the principals of the Construction Sector Accord. This has provided the market with surety to increase capability and capacity in the three waters replacement and renewals space across both reticulation and treatment plant assets. In 2022/23, the DCC delivered over $90 million in three waters capital projects.

23. While the Dunedin three waters construction market is growing in response to the DCC's investment, the gradual increase over a number of years demonstrates that it is not possible to renew an entire system at once. Any acceleration of renewals and/or upgrades required to meet new standards would be limited by the local construction market capacity.

DCC three waters systems: strategic planning

24. The DCC is undertaking a holistic, system-wide strategic planning exercise to inform future investments in its three waters systems. An overarching purpose of the exercise is to ensure that the investments in three waters systems are properly prioritised to achieve optimal outcomes (including environmental outcomes and giving effect to Te Mana o te Wai) from a system-wide point of view.

25. The holistic, system-wide approach recognises the interconnected nature of three waters systems and seeks to avoid investment decisions being made on a narrow, case-by-case basis. For example, it seeks to avoid investment decisions being driven solely by regulatory factors such as consent expiry, or by a narrow focus on one part of the system. In relation to wastewater overflows, for example, a system-wide view considers the impact of network overflows on receiving environments, the impact that the absence of overflows could have on network performance, treatment process performance, and – ultimately – the quality of discharge from wastewater treatment plants to the environment. This holistic approach can also optimise investment across the wastewater and stormwater networks to target where these improvements would have the biggest impact on the receiving water quality.

26. The DCC's three waters strategic planning work is being undertaken in partnership with mana whenua. It is underpinned by objectives that relate to a range of drivers, including levels of service, Te Mana o te Wai, cultural values, affordability, regulatory compliance and responding to impacts of climate change and population growth. The exercise also incorporates an adaptive planning approach designed to provide flexibility in the DCC's plans to adjust to changes in the operating environment (including, for example, regulatory and policy changes, changes in community expectations, and climate change).

27. The DCC considers system-wide strategic planning is an appropriate vehicle for providers of regionally significant three waters infrastructure, like the DCC, to prioritise investment decisions in a way that balances a range of drivers, including (but not limited to) mana whenua values, levels of service, environmental outcomes, affordability, regulatory compliance and responses to the impacts of climate change and population growth.

DCC DETAILED FEEDBACK ON DRAFT PROVISIONS FOR INCLUSION IN OTAGO REGIONAL COUNCIL'S PROPOSED LAND AND WATER REGIONAL PLANPROPOSED PROVISIONS

Wastewater Management

Reticulated wastewater (municipal and privately owned and operated networks) section

Key ORC proposals for inclusion in the LWRP:

Existing systems

- *Discretionary consent needed for existing discharges to water and land*
- *After 2045 it will be prohibited to:*
  - *discharge wastewater into water*
  - *discharge untreated wastewater onto land where it may enter water (i.e., sewage overflows).*

New systems

- *Discretionary consent needed to discharge treated wastewater to land*
- *Prohibited to discharge untreated wastewater to land where it may enter water (i.e., sewage overflows)*
- *Prohibited to discharge treated or untreated wastewater to water.*

DCC detailed feedback on proposed provisions

28. The draft proposals for the LWRP contradict the pORPS by proposing to prohibit, from 2045, direct discharges of wastewater from existing systems to water and discharges of untreated wastewater from existing systems onto land where they may enter water.

29. ORC's section 42A report on the pORPS recommends the inclusion of new objective (LF-FW-O1A(8)) and new anticipated environmental results (LF-FW-AER9) "*Direct discharges of wastewater to water are phased out to the greatest extent practicable*" and new policy (LF-FW-P16(1)) "*phasing out existing discharges containing sewage or industrial and trade waste*

directly to water to the greatest extent possible". The section 42A report acknowledges that some direct discharges of wastewater to water cannot be phased out and that phasing out should only be required to the greatest extent practicable. It is also acknowledged by the section 42A report writer that in some cases the direct discharge to water may have fewer adverse effects than discharge to land.

30. Policies proposed for the LWRP need to be consistent with the direction set by the objectives and policies of the pORPS and account for practicability and the benefits of a holistic, strategic approach to the planning, delivery and operation of community three waters infrastructure and services.

Impacts on wastewater system management: wet weather wastewater network overflows

31. Constructed wastewater network overflows can result in the discharge of untreated wastewater to the environment in specific circumstances (generally in heavy wet weather). Constructed overflows are designed to relieve pressure on the network when it reaches capacity and prevent the uncontrolled discharge of wastewater onto roads and properties. In some cases, wastewater overflows are discharged firstly to the stormwater system before reaching the environment.

32. Wet weather wastewater overflows are the only direct wastewater discharges to freshwater in the DCC's existing wastewater systems. The DCC is committed to implementing appropriate measures to reduce the frequency and volume of wet weather wastewater overflows. However, to meet the proposed LWRP rules, the DCC would either have to direct these untreated overflows to land where they would not enter water or eliminate them from the system altogether.

33. While directing wastewater overflows to land is possible, it may not always be practicable without introducing risks to public health that the wastewater system as a whole is designed to avoid. Wastewater network overflows were historically constructed to direct wastewater into the stormwater network or directly to water bodies. This was done to protect public health by stopping wastewater backing up into people's homes, or spilling onto land where it is more likely people would come into contact with it. These overflow points are located in urban environments, where it is not practicable to overflow onto land without creating a public health risk and are still used today for the purpose of effective management of the wastewater system.

34. Reducing wet weather wastewater network overflows requires significant investment system-wide and a long period of dedicated effort before there are tangible improvements. Even then, in extreme weather events, network surcharging and overflows may still occur. This is because there are several ways that stormwater and/or groundwater can enter the wastewater system. These include unauthorised private connections of stormwater drainage to the wastewater network, infiltration through aged pipes both within the DCC network and private laterals (the pipes that connect individual properties to the public wastewater main), or through manhole lids during surface flooding.

35. To reduce the volume and frequency of wet weather overflows, the DCC undertakes projects to reduce the amount of stormwater and groundwater getting into the wastewater network

and/or to upgrade the wastewater system to handle the additional flows without overflowing. However, given the magnitude of the current issue (wet weather flows of over 10 times the dry weather flow in some areas), completely eliminating overflows is not practicable. Network renewals (source control) and storage solutions are expected to require significant capital investment (hundreds of millions of dollars) and a long time period (decades) to deliver.

36. The policy direction in the pORPS (LF-FW-P16 2(d) and LF-FW-AER9) – to minimise the adverse effects of direct and indirect discharges containing animal effluent, sewage, and industrial and trade waste to fresh water by requiring implementation of methods to progressively reduce the frequency and volume of wet weather overflows – more appropriately reflects the practicalities of wastewater system management than what is currently proposed for inclusion in the LWRP. The LWRP needs to be consistent with the approach proposed in the pORPS.

37. The DCC is using a holistic, system-wide strategic planning approach to prioritise investment across stormwater and wastewater discharges and – at a system-wide level – to deliver optimal environmental benefits (for example, improvement in freshwater quality in the receiving environment) and give effect to Te Mana o te Wai. In some cases, from a system-wide point of view, the provision of an overflow may be the best practicable option with minimal environmental effects. System-wide strategic planning is an appropriate vehicle for providers of regionally significant three waters infrastructure, like the DCC, to prioritise investment decisions in a way that appropriately balances multiple drivers and constraints to meet freshwater objectives.

DCC recommendation

38. The DCC recommends the ORC amends the proposed LWRP to make it consistent with the pORPS by adding a policy providing for "*direct discharges of wastewater to water bodies to be phased out to the greatest extent practicable*".

39. The DCC recommends the ORC adds policies to the LWRP that include reference to three waters Regionally Significant Infrastructure being managed in accordance with a coordinated strategy that aligns with the objectives of the pORPS for each FMU, as a tool for making investment decisions that would support phasing out of these discharges to the greatest extent practicable by the dates set in the relevant FMU objectives in the pORPS. The DCC recommends the inclusion of the following policies:

    a. Minimise the adverse effects of direct and indirect discharges containing animal effluent, sewage, and industrial and trade waste to fresh water by:

        i. phasing out existing discharges containing sewage or industrial and trade waste directly to water to the greatest extent practicable, and for the Dunedin City three waters Regionally Significant Infrastructure, this should be supported by a coordinated strategy to align with the objectives of the relevant FMU.

        ii. With the exception of existing three waters Regionally Significant Infrastructure, new discharges containing sewage or industrial and trade waste to be to land, unless adverse effects associated with a discharge to land are demonstrably greater than a discharge to freshwater.

40. The DCC recommends the ORC adds a method to the LWRP consistent with that suggested by witnesses for the DCC during the pORPS hearings, being, "*The owner of the Dunedin City three waters Regionally Significant Infrastructure should prepare a coordinated strategy that outlines progressive improvements necessary to achieve the objectives of this [Land and Water Regional Plan]. If such a strategy is adopted, then it is to be considered as a relevant matter when processing any relevant consent applications made.*"

Onsite wastewater (septic tanks) section

Key ORC proposals for inclusion in the LWRP:

- *If there is an available reticulated wastewater system available, discharges from any (existing or new) onsite system are not permitted.*

DCC detailed feedback on proposed provisions

Requiring wastewater discharges to reticulated system where available

41. The 'Onsite wastewater (septic tanks)' section indicates a proposed new approach of "*If there is a reticulated wastewater system available, discharges from any (existing or new) onsite system are not permitted*."

42. DCC generally supports expansion of wastewater reticulation where practicable and appropriate, as this can lead to better environmental outcomes than wastewater self-servicing. However, the DCC submits that decisions about availability of reticulated wastewater services for connection should be made by the network owner/operator (usually the territorial authority) with consideration of the particular situation. The following reasons are provided to support this recommendation:

    a. The definition of 'Available reticulated wastewater system' proposed for inclusion in the LWRP reflects the distances specified in the Local Government Act 1974 (LGA 1974) for connection to the reticulated network. However, in accordance with the LGA 1974, beyond these distances common drains may be permitted or required by the territorial authority. This is not reflected in the definition in the LWRP. In addition to the LGA 1974, other legislation and council documents also contribute to determining who should be required or permitted to connect to wastewater services.

    b. District plan zone boundaries reflect the territorial authority's decisions about what areas will be serviced by public wastewater systems and therefore which properties can connect. The DCC prefers (and generally requires) development to connect to reticulated networks in 'urban' serviced areas (e.g. residential, commercial and industrial zones). However, rural, rural residential, and some residential zones or areas do not have wastewater servicing. In some situations, infrastructure may be uphill of a development and pumping would be required (whereas most of Dunedin's drainage infrastructure works on gravity) or properties may not have services to the boundary. In some locations there is infrastructure

that transports bulk wastewater to another location. These 'distribution mains' can be located outside of DCC service area boundaries and are not generally available for individual connections. In all these situations, connection to reticulated network may not be possible or practicable and therefore connection decisions should be at territorial authorities' discretion, not dictated by the LWRP.

c. Services can be 'made available' in many cases but extension of existing services may be accompanied by considerable costs, or conditions to protect the wastewater system and the environment.

d. The DCC restricts the type and volume of discharges accepted to the reticulated wastewater system through trade waste consents issued to industrial and commercial customers. Trade waste consents are required to ensure higher risk discharges to the wastewater system are managed appropriately. This supports DCC's compliance with its own wastewater discharge consents, as well as supporting environmental protection and the health and safety of people working on the wastewater system.

43. The DCC's 'New Reticulated Utility Services (Water, Wastewater, and Stormwater) Policy 2010', provides the framework for considering servicing and allocating costs to customers in new areas to be serviced by the reticulated network. Services can be made available to new customers, but network extensions may require significant investment and costs may need to be met by the beneficiary of the network extension (for example, the developer).

44. The DCC supports the promotion of reticulation of wastewater in urban areas but considers that connection to the wastewater system must be at the system owners' discretion, so that inappropriate discharges to the wastewater system can be declined or managed.

45. The section 42A report on the pORPS proposes new LF-FW-P16 (2)(c) "*that all discharges containing sewage or industrial and trade waste are discharged into a reticulated wastewater system, where one is made available by its owner, unless alternative treatment and disposal methods will result in improved outcomes for fresh water*", and new LF-FW-P16 (3) "*to the greatest extent practicable, requiring the reticulation of wastewater in urban areas*". Amendments to align the proposed LWRP with the pORPS are required.

DCC recommendation

46. The DCC recommends the ORC amends the requirement for connection 'where available'. Instead of LWRP requiring connection to a reticulated wastewater network where available, provide policies and methods to support the infrastructure owner determining if infrastructure is available and where connection is appropriate. This could be achieved by including a policy similar to that proposed in pORPS "*that all discharges containing sewage or industrial and trade waste are discharged into a reticulated wastewater system, where one is made available by its owner, unless alternative treatment and disposal methods will result in improved outcomes for fresh water*".

Stormwater Management

Network discharges section

Key ORC proposals for inclusion in the LWRP:

- *Owners/operators of reticulated stormwater systems will require a 5-year consent [controlled] to continue discharging stormwater from an existing reticulated system into water*
- *Owner/operators of reticulated stormwater systems will have 5 years to map their network and put in place a monitoring programme before applying for a network consent [discretionary]*
- *Network consent conditions will require progressive network upgrades until water quality outcomes are met, as a matter of discretion*
- *Network consent conditions will require a stormwater management plan to manage the quality and quantity of stormwater being discharged, as a matter of discretion.*

DCC detailed feedback on proposed provisions

DCC stormwater network

47. The DCC supports the LWRP proposed approach of having a transitional regime where stormwater discharge activities are controlled initially to enable a 5-year consent, to allow monitoring before moving to a longer-term consent.

48. The 'Network discharges' section of the LWRP proposal provides an indication of draft rules for management of discharges from reticulated stormwater networks. The DCC public stormwater network includes roads, mud tanks, pipes, manholes, pump stations, retention/detention ponds, stormwater reserves, inlet and outlet structures and some urban watercourses. The DCC stormwater network is within the urban environment but also receives water from rural catchments and urban watercourses. The kerb and channel network within the roading corridor collects stormwater and directs it to the reticulated (piped) network, or stormwater retention/detention ponds or watercourses. Dunedin's stormwater networks include both public and private assets, and both open and piped systems. Even if a stormwater discharge is into piped public infrastructure, it can still cross through other parts of the network (that may be open and/or private). This is discussed further below in relation to the requirement for activities to connect to the stormwater network.

49. The definition of 'Stormwater network' provided in the LWRP Glossary, could be interpreted to include infrastructure managed as part of the roading network that contributes to the movement of stormwater (e.g. kerb and channel or mudtanks), which is not managed by the territorial authority as part of the reticulated stormwater network. This could result in a lack of clarity about requirements for connections discharging to reticulated stormwater network or to roads. As the LWRP proposals would require connection to the stormwater network, it is essential that a clear definition is provided as to what infrastructure is to be connected to, and distinction is made between the reticulated stormwater network and use of the roads to collect and convey stormwater.

50. Clarity is required to show that private piped watercourses or stormwater infrastructure is not included in the definition of public reticulated stormwater system, and that discharge consents are not required from private infrastructure where it transitions and discharges to open

watercourses (that may meet the RMA definition of a river). This is addressed further below in the 'Non-network discharges section'.

Stormwater discharges from reticulated network to environment

51. The DCC currently holds ten resource consents to discharge stormwater to the coast at the Otago Harbour and the Pacific Ocean. Conditions of coastal discharge consents held by the DCC require DCC to undertake management of catchments through the preparation of an Integrated Catchment Management Plan (ICMP) and implementation of an Action Plan that includes development and implementation of regulatory controls; stormwater network maintenance; education; and ongoing implementation of the ICMP and updates on progress.

52. It is assumed, based on the consultation information provided, that the stormwater discharge rules are intended to relate to the final discharge of stormwater to water. On the contrary, it is assumed that the stormwater rules are not intended to relate to points in the stormwater network where stormwater, as part of its journey to its final discharge to water destination, enters open watercourses that may meet the RMA definition of a river (and that subsequently re-enter the stormwater network downstream). DCC staff would appreciate the opportunity to work with ORC staff to understand the finer details of the proposal and comment on the potential complexities that could exist if these assumptions are not correct. In particular, the DCC wishes to avoid a situation where catchments to be managed under new consents for stormwater discharges to freshwater overlap with the existing catchments managed through DCC's consents for stormwater discharges to the coast.

DCC recommendation

53. The DCC recommends the ORC amends the proposed 'Stormwater network' definition to clarify that roading network infrastructure is not included in the definition. Possible amendments to the stormwater network definition for further consideration are shown underlined:

    ***"Stormwater network** - An interconnected system of pipes, open channels, treatment devices and ancillary structures which are operated by a territorial authority, network utility operator, company or collective and used for collecting, conveying, diverting, storing, treating, or discharging stormwater. <u>This does not include infrastructure used to collect and convey stormwater that is operated and managed by the roading authority</u>."*

54. The DCC recommends the ORC amends the proposals, as appropriate, to provide clarity that the requirement to monitor discharges is only intended to apply at the final point of discharge to freshwater, and not points in the network where stormwater may enter open watercourses prior to re-entering the stormwater network.

Non-network discharges section

Key ORC proposals for inclusion in LWRP

- *New rule framework will capture non-network discharges from roads, carparks, roofs, and any other modified surface*
- *The first permitted activity condition is that stormwater discharges must be connected to a stormwater network if there is one available*

- *Stormwater discharges are permitted if they do not:*
  - *cause flooding*
  - *come from contaminated land*
  - *occur in a drinking water protection zone*
  - *come from land used for industrial or commercial activities*
  - *exceed quality requirements*
  - *Stormwater discharges which do not meet the permitted activity conditions above will require a discretionary consent."*

DCC detailed feedback on proposed provisions

55. The proposed categorisation of network discharges and non-network discharges has the potential to cause confusion. Non-network discharges are required to connect to the stormwater network to be a permitted activity. By connecting to the network, non-network discharges become part of network discharges. Referring to the surfaces a discharge comes from (i.e. roads, carparks, roofs or modified surface) as categorising it as 'non-network' is also confusing as discharges from these surfaces could either be discharged to the reticulated network, or not.

56. The DCC anticipates that the next version of the LWRP provided for consultation will articulate what discharges will be managed under the network and non-network categories.

57. The proposed LWRP provisions indicate that, for activities to be permitted, "*stormwater discharges must be connected to a stormwater network if there is one available*". The pORPS provisions recommended by ORC in the section 42A report require at LF-FW-P15: *"(b) all stormwater to be discharged into a reticulated system, where one is made available by the operator of the reticulated system, unless alternative treatment and disposal methods will result in improved outcomes for fresh water*" and *"(3) to the greatest extent practicable, requiring the reticulation of stormwater in urban areas*". Changes to pORPS provisions recommended in the section 42A report, if accepted by the Hearing Panel, need to be reflected in the LWRP.

58. Due to the complicated nature of stormwater networks (public/private, open/piped), the DCC submits that decisions about connection to stormwater services should be made by the territorial authority with consideration of the particular situation. The reasons for this are discussed below.

    a. Stormwater is often discharged to privately owned piped or open watercourses that then connect into a territorial authority's stormwater network (which includes piped infrastructure, the roading network, and open watercourses). Stormwater may travel between the private and public network before being discharged to the coast or freshwater.

    b. District plan zone boundaries reflect territorial authority decisions about what areas will be serviced by public stormwater systems and which properties can connect. The DCC may require a development to connect directly to reticulated networks in 'urban' areas, however, in most cases discharge to the kerb and channel or an open watercourse is allowed. In all these situations, connection to reticulated network may not be possible or

practicable and therefore connection decisions should be at territorial authorities' discretion not dictated by the LWRP.

c. The DCC is required to have stormwater discharge consents from the ORC for discharging stormwater into water bodies if the discharge is not permitted by the Regional Plan Water for Otago (Water Plan). In some locations there are restrictions imposed by the Water Plan requirements, such as stormwater discharges to regionally significant wetlands like Tomahawk Lagoon, that limit the DCC's ability to accept new stormwater discharges from properties wanting to connect to the stormwater network or install new infrastructure for vesting in DCC that would result in new discharge consents from the ORC being needed. The Water Plan requirements can sometimes create problems for DCC in determining where properties can discharge stormwater if there is not capacity for increased volumes under existing discharge consents or the Water Plan restricts discharges or require new discharge consents. If the LWRP is going to require connection, where stormwater network is available, consideration should be made for not having connections where the Water Plan does not allow for increased discharges or extensions of the existing stormwater network.

59. The DCC's 'New Reticulated Utility Services (Water, Wastewater, and Stormwater) Policy 2010', provides the framework for considering servicing and allocating costs to customers in new areas to be serviced by the reticulated network. Services can be made available to new customers, but network extensions may require significant investment and costs may need to be met by the beneficiary of the network extension (for example, the developer).

60. The need to consider these factors on a case-by-case basis supports the DCC suggestion that requirements to make properties connect to the stormwater network or reticulated stormwater network (depending on how these are defined) should be at the discretion of the territorial authority, not set by a rule in the LWRP.

61. The requirement for stormwater discharges to be to a reticulated network, where available, for the discharge to be a permitted activity, raises concern about how discharges to open watercourses (that may meet the RMA definition of a river) will be managed. Is the LWRP proposing that discharges to open watercourses would require consent if there was an alternative stormwater network available? For Dunedin, as with other hilly cities, discharge to open watercourses is commonplace and any requirement for consent to allow such discharges may place unreasonable additional requirements on landowners and complicate developments.

62. Higher order documents such as the pORPS use the term 'reticulated system', whereas the LWRP uses 'stormwater network'. Clarity or consistency is required given that the different terms used have different meanings and therefore place different requirements or expectations on connections. The DCC's concerns with the definition of 'Stormwater network' are discussed in the 'Network discharges section' above, and amendments to the definition are recommended. The DCC district plan includes a definition of Public Infrastructure, being:

"Public infrastructure consists of:

- *the public reticulated systems of pipes and associated accessory structures, and in the case of stormwater infrastructure includes flood management schemes, land drainage schemes and open channels owned and managed by DCC or Otago Regional Council, that enable the*

management and distribution of stormwater, wastewater or water supply. This excludes any private stormwater, wastewater or water supply systems or structures; and

- *public roading networks (including DCC and NZTA managed roads)."*

DCC recommendation

63. The DCC recommends the ORC amends the proposals, as appropriate, to provide clarity about what types of discharges are being managed by the 'network discharges' and 'non-network discharges' provisions. Clarity may be better achieved by differentiating between discharges to the environment from public reticulated networks and discharges from other networks or properties that discharge directly to the environment (ie. not via the public reticulated network, for which the territorial authority holds discharge consents).

64. The DCC recommends the ORC includes policies and methods in the LWRP to support the territorial authority/infrastructure owner to determine if infrastructure is available and where connection is appropriate.

65. The DCC recommends the ORC amends the draft policy wording requiring connection 'where available' to align with pORPS provision LF-FW-P15(2)(a): "*Minimise the adverse effects of direct and indirect discharges of stormwater to fresh water by requiring all stormwater to be discharged into a reticulated system, where one is made available by the operator of the reticulated system, unless alternative treatment and disposal methods will result in improved outcomes for fresh water*."

66. The DCC recommends the ORC amends the proposals to ensure consistent use of either 'reticulated system', 'stormwater network' or 'stormwater public infrastructure'. Possible options are shown below. Consistency with higher order documents would also be appropriate.

67. Possible new definition or amendment to current LWRP definition:

    Public stormwater infrastructure consists of the public reticulated systems of pipes and associated accessory structures, flood management schemes, land drainage schemes and open channels owned and managed by DCC or Otago Regional Council, that enable the management and distribution of stormwater. This excludes any private stormwater, systems or structures.

    Or

    "Public stormwater network *- An interconnected system of pipes, open channels, treatment devices and ancillary structures which are operated by a territorial authority, network utility operator, company or collective and used for collecting, conveying, diverting, storing, treating, or discharging stormwater. This does not include infrastructure used to collect and convey stormwater that is operated and managed by the roading authority, or any private stormwater systems or structures."* (also includes changes recommended above in 'network discharges section').

Gaps in proposed stormwater rules and regulations in LWRP – water sensitive urban design

DCC detailed feedback on proposed provisions

68. The proposed LWRP rules and regulations provided for consultation do not refer to use of water sensitive urban design techniques / infrastructure as a possible way of managing stormwater in urban environments.

DCC recommendation

69. The DCC recommends the ORC includes policy direction in the new LWRP to encourage the use of water sensitive design techniques wherever practicable and beneficial (in accordance with pORPS provision LF-FW-P15(2)(f)).

70. The DCC recommends the ORC includes methods in the new LWRP to encourage territorial authorities to include provisions for water sensitive design in district plans.

Beds of Lakes and Rivers

Key ORC proposals for inclusion in the LWRP:

- *Permitted activity rules capture similar activities [to existing Water Plan], but have been refined to capture all associated disturbance, discharge, deposition, and land use requirements so that users do not need to consult multiple parts of the plan.*
- *One aspect of permitted activity criteria: Structures are not located within drinking water protection zones, habitats of threatened species, or outstanding water bodies (for some structures) and don't interfere with existing navigation or legal public access.*
- *Use of existing structures are permitted if:*
  - *They are lawfully established*
  - *They are actively used*
  - *If a change in use of the structure occurs, the effects of the new use are the same or similar in character, intensity, and scale as the preceding use*
  - *They are maintained in a state of good repair*
  - *They are not identified in an action plan as requiring remediation to provide for fish passage*
  - *Any build-up of debris against the structure which may adversely affect flood risk, drainage capacity or bed or bank stability is removed as soon as practicable*
- *If the activity does not comply with the above permitted activity conditions, a restricted discretionary activity will be required.*

DCC detailed feedback on proposed provisions

71. DCC has many existing structures in the bed of rivers. The LWRP provisions need to recognise that when old structures in rivers such as outlets or erosion protection require replacement, they will need to be to modern climate change driven hydraulic standards and may need to be replaced with a larger footprint or capacity. Rules will need to make a pathway for appropriate replacement of existing structures in riverbeds.

72. Adjacent to some rivers in Dunedin, old oxbows that are no longer connected to the river's main stem are used for stormwater collection and meet the Resource Management Act 1991 definition of a lake. As such, resource consent or bylaw consent may be required for removal of sediment or vegetation/weeds to ensure the appropriate functioning of the lake for stormwater management. It is important for the LWRP to continue to provide for such activities to facilitate the use of these areas for stormwater management.

73. The 'General consenting requirements' section lists topics on which stronger policy guidance will be provided to inform decision-making on consent applications. Allowing for appropriate replacement of existing structures at larger sizes to meet new climate-driven standards in riverbeds and sediment/vegetation removal from areas (considered to be lakes) used for stormwater management could be addressed under these provisions.

DCC recommendation

74. The DCC recommends the ORC includes policy guidance in the new LWRP for consent decision-making to allow for appropriate replacement of existing structures in riverbeds and sediment/vegetation removal from stormwater management areas. This includes provision for increasing the capacity and size of structures to meet climate driven standard requirements.

Environmental Flows and Limits (Water Quantity) and related FMU-specific provisions for Taiari/Taieri and Dunedin & Coast FMUs

Key ORC proposals for inclusion in the LWRP:

Environmental Flows and Limits (Water Quantity)

- *Environmental flows and take limits set for all rivers*
- *Two-stage approach to phasing out of existing over-allocation*
- *Policy guidance for specific activities, including 'community water supply', defined as follows:*
    - *"Water taken and used primarily to supply drinking water to users via a reticulated system, with water also supplied for other purposes including institutional, industrial, and commercial processing, cultivation, and production of food and beverages and fibre, animal drinking water purposes, amenity irrigation use and fire-fighting activities. The supply of domestic water must constitute at least 50% of the water supplied."*
- *Policy direction to ensure all water storage, conveyance, take and use is reasonable and efficient for its intended use.*
- *Policy direction to encourage takes from resilient sources (main stems of river catchments, lakes and groundwater where further allocation remains available), in preference to takes from tributaries and over-allocated rivers.*

Taiari/Taieri FMU

- *For the Taiari/Taieri River, whose hydrology has been modified by damming and water takes, "bespoke" take limits and environmental flows will be set in the new Land and Water Regional Plan. These bespoke limits will be informed by detailed scientific and technical*

investigations. Technical recommendations for bespoke limits for the Taiari/Taieri River are yet to come.

- *To achieve the environmental outcomes of the Taiari/Taieri catchment and phase out any over-allocation of water it is proposed to set a common consent duration expiry date for any new consent granted under the LWRP framework, the proposed common catchment date for the Taiari/Taieri FMU is 2034.*

Dunedin & Coast FMU

- *For the Waikōuaiti River, "bespoke" take limits and environmental flows will be set in the new Land and Water Regional Plan. These bespoke limits will be informed by detailed scientific and technical investigations. Technical recommendations for bespoke limits for the Waikōuaiti River are yet to come.*

- *For river catchments where a transition may be needed to achieve the environmental outcomes of the catchment and phase out over-allocation, it is proposed to set a common consent duration expiry date for any new consent granted under the LWRP framework, the proposed common catchment date for rivers where this will apply in the Dunedin & Coast FMU is 2030.*

DCC detailed feedback on proposed provisions

75. DCC's community water supply underpins the health of the people, including residents, workers and manuhiri/visitors to Dunedin City.

76. The DCC operates four registered drinking water supplies. These provide treated drinking water via reticulated networks to over 40,000 properties for a range of domestic and non-domestic purposes. Among other things, these community water supplies provide water for drinking, sanitation and fire-fighting purposes to protect public health and safety.

77. The large Dunedin City supply services a population of approximately 112,000 people. Water is abstracted from surface water takes in the Taiari/Taieri and Port Chalmers catchments, the largest of which are at Deep Creek, Deep Stream and Silverstream. Three water treatment plants (Mount Grand, Southern and Port Chalmers) treat the water to make it safe for human consumption. From the treatment plants, treated water is distributed to consumers via a complex network of pipes, treated water storage reservoirs, pumps and valves. The Dunedin City supply's treated water network infrastructure covers a large geographic span, from Seacliff in the north, to East Taieri in the south.

78. An additional three registered drinking water supplies service communities in Waikouaiti and Karitāne, Outram, and West Taieri (including Dunedin International Airport). Each supply has its own source, water treatment plant and distribution network. Together, these three supplies provide community water supply to a population of approximately 3000 people.

79. The DCC holds more than 50 resource consents that enable it to provide the community water supply services detailed above. These consents, which permit activities such as taking, diverting,

and damming water, and discharging backwash water from water treatment plants to waterways, all expire between 2037 and 2045.

80. Water supplied by the DCC is treated in accordance with drinking water regulatory requirements for the purpose of supporting the health needs of the people (including for drinking and other purposes). The DCC submits that its community water supplies are therefore a tier two priority under Te Mana o te Wai hierarchy of obligations set out in the NPS-FM.

81. Community water suppliers need certainty about their water takes to enable the substantial forward planning and significant financial long-term investment required for community water supply infrastructure.

Policy alignment – LWRP, pOPRS, NPS-UD, NPS-FM

82. As DCC has previously raised in submissions on the pORPS, there is a potential for conflict between the objectives and policies of the NPS-FM and NPS-UD in relation to management of water quantity and allocation. The LWRP policy and rule framework must align with the policy direction provided by the pORPS, NPS-UD and NPS-FM. The LWRP and pORPS should give guidance to how any conflicts should be managed.

83. It is necessary that a community water supply is able to provide for future growth as required by the NPS-UD. Section 2.2, Policy 6 of the NPS-UD states when making planning decisions that affect urban environments, decision makers have particular regard to the following matters:

> *"the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement."*

84. The section 42A report on the pORPS considered there may be merit in providing further guidance on priorities where there is conflict between them, however it noted specific wording has not been suggested by stakeholders in the submissions. The section 42A report suggested a more detailed approach to provide direction on priorities would be better addressed through the LWRP.

85. Evidence for DCC at the pORPS hearing suggested several amendments to provisions to recognise the NPS-UD, including the following amendment (addition underlined) to LF-WAI-P1(3):

> "*In all decision-making affecting fresh water in Otago, prioritise: third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future including enabling urban <u>settlements to grow and develop as required by the NPS-UD</u>."*

86. In addition, the DCC submits that the proposed definition of 'community water supply' in the LWRP requires amendments to ensure consistency with the policy direction of the NPS-UD and the provisions of the pORPS (with amendments suggested by witnesses for DCC). In addition, the DCC submits that the proposed definition's reference to "*The supply of domestic water must constitute at least 50% of the water supplied*" may create uncertainty and may be difficult to measure and enforce. It is assumed 'domestic' here means not "*institutional, industrial, and commercial processing, cultivation, and production of food and beverages and fibre, animal*

drinking water purposes, amenity irrigation use and fire-fighting activities", as these activities are specified in the definition as water supplied for things other than drinking water.

Phasing out over-allocation and prioritizing future water allocation

87. In general, DCC supports the phasing out of over-allocation / paper allocation to protect river health, however it is important that community water supplies are recognised as tier two priority takes under the Te Mana o te Wai hierarchy of obligations and appropriately prioritised above tier three priority takes (such as those used for irrigation).

88. Currently, 93% of DCC's existing water take consents in active use are from fresh water within the Taiari/Taieri FMU. These consents authorize the DCC to take almost 120,000m^3 of fresh water per day, being approximately 6% of the total consented allocation currently within the catchment.

89. The challenge is that according to data from ORC's GIS mapping tool, the Taiari/Taieri FMU catchment is over-allocated by a magnitude of 6 times its modelled limit. This means that DCC's consented water take is approximately 36% of the Taiari/Taieri FMU modelled allocation limit. ORC is currently working on defining bespoke environmental flows and take limits for the Taiari/Taieri River. It is anticipated the bespoke minimum flow could have a significant impact on the future exercise of DCC water take consents during low flows.

90. The draft provisions indicate there will be a two-stage process for phasing out over-allocation for river catchments with bespoke environmental flows and take limits, including the Waikōuaiti and Taiari/Taieri River catchments. The two-stage process may provide a period within which water users need to negotiate among themselves to develop catchment-wide plans for achieving environmental flows. If an agreement is not reached, then ORC may step in to reduce takes.

91. The DCC submits that this approach would not be appropriate for DCC's community water supply because DCC's takes are for a tier two priority (to provide for the health needs of people) and must be maintained in accordance with the policy directives of the NPS-UD policy. If the water quantity policy and rule framework established by LWRP results in a low flow restrictions regime that does not appropriately prioritise water takes for community water supplies, it will become difficult to provide sufficient drinking water to support the social, economic, and cultural well-being of people and communities in Dunedin. There could be significant periods of demand shortfall under future consents, where minimum flows and/or reduced allocations result in consent conditions requiring reduction or ceasing of takes in certain circumstances.

92. As outlined in evidence for DCC presented to the pORPS Hearing Panel, the optimal way to improve efficiency for DCC's prioritised takes is to prepare a coordinated strategy for three waters Regionally Significant Infrastructure that outlines methods for delivering the objectives of the pORPS. This could include increased network monitoring to identify leakage, identification of alternative water sources and development of new water storage facilities to manage water demand during periods of low river flows. System improvements required to ensure security of supply and maintain levels of service are likely to need substantial investment and take an extended period of time to implement.

Taiari/Taieri FMU

93. The LWRP proposes to achieve the environmental outcomes of the Taiari/Taieri catchment and phase out over-allocation of water by setting an initial common consent expiry date of 2034. This ten-year timeframe may be sufficient to work through the necessary investigations and identify preferred solutions in accordance with a coordinated strategy for Dunedin's three waters Regionally Significant Infrastructure, however it is unlikely new large-scale infrastructure (such as additional water storage) would be in place by 2034. The DCC submits that the timeframe for implementation of the actions to phase out over-allocation would be more realistically aligned with the 2050 target date in the pORPS vision / objective for the Taiari/Taieri FMU.

Dunedin & Coast FMU

94. The DCC acknowledges and supports the adjustment of the boundary between the Dunedin & Coast and North Otago FMUs, as requested by Mana Whenua and the DCC through the pORPS process. This results in the Waikōuaiti River catchment being included within the Dunedin & Coast FMU.

95. The LWRP proposes to achieve the environmental outcomes of the Dunedin & Coast catchment and phase out over-allocation of water by setting an initial common consent expiry date of 2030. This seven-year timeframe may be sufficient to work through the necessary investigations in accordance with a coordinated strategy for Dunedin's three waters Regionally Significant Infrastructure and identify preferred solutions, however it is unlikely new large-scale infrastructure (such as new water storage) would be in place by 2030. The DCC submission on the pORPS requested a vision date of 2043, instead of 2040, to achieve the recommended water quality and quantity objectives for this FMU. The DCC considers twenty years is a considered a more realistic timeframe for implementation of the actions to phase out over-allocation, considering the scale of the challenge.

Efficiency

96. The DCC notes that ORC intends to require efficient use of water. The DCC supports the development of 'guidelines for efficient use' to be applied in future consenting of water takes.

DCC Recommendation

97. The DCC recommends the ORC ensures the LWRP policies and rules for water quantity management prioritise takes for community water supplies in over-allocated catchments by:

    a. recognising water takes for community water supply as tier two priority takes in terms of the Te Mana o te Wai hierarchy of obligations; and

    b. recognising the policy direction of the NPS-UD.

98. The DCC recommends the ORC ensures the LWRP provisions for water quantity management are aligned with the relevant policy direction in the NPS-UD, in addition to the NPS-FM and pORPs. The DCC recommends the LWRP also provides policy guidance for decision-making on water allocation in cases where the objectives of the NPS-FM and NPS-UD may be in conflict.

99. The DCC recommends the ORC develops "guidelines for efficient water use" in consultation with DCC and other key stakeholders, including relevant experts in different fields of water use (for example, community water supply).

100. The DCC recommends the ORC amends the definition for 'community water supply' so that it aligns with the policy direction of the NPS-UD. The following wording has been suggested in expert evidence provided to the pORPS hearing committee on behalf of the DCC:

    Regionally Significant Infrastructure that incorporates a reticulated water supply scheme that provides water treated to a potable standard that meets the health needs of the population being served and provides for their social, economic and cultural well-being, now and in the future including future urban growth provided for in accordance with the NPS-UD. For clarity this excludes a supply that provides for the commercial scale irrigation of rural land.

101. The DCC recommends the timeframe for implementation of the actions to phase out over-allocation in the Taiari/Taieri FMU be aligned to the 2050 target date in the pORPS vision/objective for that FMU.

102. The DCC recommends the timeframe for implementation of the actions to phase out over-allocation in the Dunedin & Coast FMU be aligned to the target date in the pORPS vision / objective for that FMU. As per evidence for the DCC on the pORPS, it is recommended this date is set at 2043.

103. The DCC recommends the ORC adds a method to the LWRP consistent with that suggested by witnesses for the DCC during the pORPS hearings, being, "*The owner of the Dunedin City three waters Regionally Significant Infrastructure should prepare a coordinated strategy that outlines progressive improvements necessary to achieve the objectives of this [Land and Water Regional Plan]. If such a strategy is adopted, then it is to be considered as a relevant matter when processing any relevant consent applications made.*"

Primary production

Planting of plantation and permanent forestry

Key ORC proposals for inclusion in the LWRP:

- *Any existing Water Plan provisions that are more stringent than the NES-PF will be retained. This stringency relates to the management of discharges to water, and some works in the bed of lakes, rivers and wetlands.*
- *Plantation forestry will be a permitted activity where it is less than 10 hectares in area, and the setbacks below are met:*

	Slope < 10 degrees	**Slope > 10 degrees**
River	20 metres	50 metres
Lake	20 metres	50 metres
Wetland	20 metres	50 metres
CMA	50 metres	100 metres

- *Permanent forestry will be a permitted activity where only indigenous species are planted, and the setbacks below are met:*

	Slope < 10 degrees	**Slope > 10 degrees**
River	20 metres	50 metres
Lake	20 metres	50 metres
Wetland	20 metres	50 metres
CMA	50 metres	100 metres

- *Where a resource consent is required for plantation or permanent forestry, it is typically a restricted discretionary activity and the matters for discretion include effects on water quantity, effects on water quality, management of wilding trees, and effects on freshwater and freshwater ecosystems.*
- *It is anticipated that most exotic forestry planting will require resource consent, while indigenous forestry is enabled.*

DCC detailed feedback on proposed provisions

104. City Forests Limited (CFL) is a Council-Controlled Organisation owned by the DCC. CFL owns and operates a large forestry estate in coastal Otago. At present, CFL has more than 20,000 hectares of land currently in use for productive plantation forestry. Much of this estate is terrain that is greater than 10 degrees slope.

105. Through CFL's relationship with the DCC, the commercial performance of CFL has a direct impact on the economic interests of the DCC and Dunedin's ratepayers.

106. CFL's analysis of the draft LWRP provisions, as set out in the CFL submission to ORC, has found that the proposed setback rules would:

    a. significantly reduce the area of land available for productive forestry in Otago – for CFL, the reduction is estimated to be 34.1% of productive forest land, or 6849 hectares, which could amount to a material loss in crop value of more than $64.5 million (based on CFL's 2023 average valuation of forest crop value per hectare);

    b. increase CFL's Emissions Trading Scheme liabilities and have an associated adverse impact on local and regional carbon emissions reduction targets due to deforestation; and

    c. potentially lead to adverse water quality and other environmental impacts, due to the creation of larger riparian zones that could host activities that lead to poorer water quality outcomes than forestry and/or provide increased opportunities for invasive weed growth.

107. CFL's submission suggests the proposals, if implemented, will have a 'chilling effect' on forestry economic activity and, more broadly, future development in the Otago region. Impacts on the extent of the region's forestry estate would be likely to have flow impacts for associated industries such as wood processing, forestry operations contractors, and seed and nursery suppliers.

108. CFL's position is that the current rules set out in national environmental standards related to plantation/commercial forestry, in combination with rules in the current Regional Plan: Water for Otago, provide a fit-for-purpose rule framework for managing the environmental effects of plantation/commercial forestry in Otago.

DCC Recommendation

109. The DCC recommends the ORC works closely with the forestry sector and other relevant experts to revise the LWRP proposals to:

    a. address the potential adverse impacts of the proposals on forestry operations and, more broadly, Otago's environment and economic performance, as highlighted in City Forests Limited's submission to the ORC; and

b. ensure alignment with national environmental standards already in place to manage the environmental effects of plantation/commercial forestry.