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Tēnā koutou

## **SUBMISSION ON THE RMA NATIONAL DIRECTION CHANGE FOR PRIMARY SECTOR, INFRASTRUCTURE AND DEVELOPMENT AND FRESHWATER (DRAFT)**

### **Introductory comments**

The Dunedin City Council (DCC) welcomes the opportunity provided by the Ministry for the Environment (MfE) to submit on the RMA National Direction Change for Primary Sector, Infrastructure and Development and Freshwater packages. Comments are for consideration as part of this interim state and for future national direction.

### ***Theme 1 – Benefits vs risk of national direction***

The DCC supports the creation of robust, clear, integrated national direction under the Resource Management Act (RMA). Well-crafted National Policy Statements (NPS) and National Environmental Standards (NES) have several benefits including: promoting nationwide consistency, providing certainty for applicants and decision-makers, and substantially reducing the time and costs associated with developing regional and district-level policies and plans.

However, these benefits are only realised when national direction is clear, precise, and complete and appropriately gives effect to the purpose and principles of the RMA. Poorly conceived or drafted national direction can, perversely, lead to worse outcomes than no direction at all.

Lessons need to be learnt from the past problems, including those caused by: siloed national instruments that are not well integrated with each other or with the wider legislative framework, and poorly drafted frameworks that required legal decisions on interpretation<sup>1</sup>, generate Court cases as their application is unclear<sup>2</sup>, or resulted in unintended consequences including the wording of the NPS-HPL blocking sensible, Council-supported zone changes<sup>3</sup> and exposing the DCC to applicants seeking costs.

There is now a body of useful case law to guide the development of a more complete and coherent set of national direction which is appropriate under the RMA and that will hopefully also be largely appropriate under the new system. It is critical that officials/ drafters familiarise themselves with the case law and issues that have occurred and avoid these in future drafting.

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<sup>1</sup> Blue Grass Limited v Dunedin City Council [2024] NZEnvC 83

<sup>2</sup> Gray v Dunedin City Council [2023] NZEnvC 45

<sup>3</sup> SG Johnston v DCC [2025] NZEnvC 192



Importantly, an NPS may be internally coherent but cause significant implementation challenges if it does not set out how its objectives should be reconciled with other matters of national importance under the Act. When national direction requires councils to enable certain activities but does not include clear effects management hierarchies, it does not resolve conflicts — it simply transfers them to councils, leading to inconsistent outcomes and costly, case-by-case disputes. While the intent of introducing ‘positive effects’ considerations in national direction through the NPS-Infrastructure is supported, doing this without also addressing the need for appropriate policy that translates this into an appropriate effects-management hierarchy has little benefit and introduces risks that are inherent with any national direction. This risk is exacerbated in this case through the decision not to produce exposure drafts of the direction and enable a robust process to get them right.

The package of national direction as presented through this process, indicates a high potential for poor drafting, inconsistent definitions for the same concept across different national instruments, and the introduction of novel policy terms or concepts that will invite legal challenges and generate the very uncertainty that national direction is meant to reduce. These matters must be addressed in order for the benefits to outweigh the costs.

Ultimately, the value of national direction lies in its quality and coherence. A rushed or incomplete instrument is a false economy — it creates a legacy of uncertainty, delays plan-making, and shifts significant costs onto local government and communities.

We strongly urge the Ministry to ensure that all national direction is comprehensive, integrated with the wider resource management framework, and drafted to the highest standard of legal precision. Investing the time and expertise to “do it once and do it right” will deliver the consistency, certainty, and efficiency that the new system is designed to achieve.

One way to achieve this is to enable enough scrutiny of national direction by experienced practitioners in local government prior to its finalisation.

### ***Theme 2 – Getting the needle in the right position (environmental protection vs enabling growth and development)***

The DCC acknowledges the Government’s frustration with the implementation of the RMA, particularly examples where the balance has skewed too heavily towards environmental or section 6 values maintenance goals and unreasonably prevented development with high community need and benefit.

However, conversely it is crucial to avoid shifting the needle too far and risking unacceptable environmental degradation or loss of important values that attract visitors to New Zealand and make people want to live in New Zealand. New Zealand’s natural environment and liveability is its golden goose.

In Dunedin, the tourism sector employed around 4,868 people and contributed \$379m towards Dunedin’s GDP in 2024. Recent research as part of Dunedin’s Destination Management Plan found the outdoor and natural environment are considered ‘must dos’ for Dunedin visitors. The city’s heritage is also important to its attractiveness as a visitor destination.

Enabling growth without adequate safeguards to protect indigenous biodiversity, preserve the natural character of the coastal environment, safeguard outstanding natural landscapes and features and historic heritage could do more economic and social harm than is worth the benefits of the development that is enabled.



National direction under the RMA, and within the proposed new resource management system, must clearly and effectively balance the imperative to protect the life-supporting capacity and intrinsic values of our environment alongside facilitating economic opportunities, essential infrastructure, and housing developments. This balance should explicitly incorporate te ao Māori approaches to environmental management and support Māori aspirations for development.

### ***Theme 3 - Takata whenua engagement***

The DCC considers that all of the national direction related to infrastructure, transmission networks, and energy generation must explicitly recognise the rights and interests of takata whenua in infrastructure planning and decision-making.

From a te ao Māori perspective, infrastructure should not only enable physical connection and resilience, but also support mana whenua in their roles as kaitiaki and Treaty partners. This objective would ensure that takata whenua values are appropriately considered across the full lifecycle of infrastructure—from spatial planning and project design to delivery and operation.

We further support the proposed policy requiring engagement with takata whenua, but recommend it be strengthened to clarify that engagement must be active, ongoing, and culturally appropriate. Policies should specify that takata whenua must be engaged with, not simply consulted, and that such engagement should occur early in the planning process to help avoid adverse effects. We also encourage the Ministry to embed this principle across the NPS-I and to apply similar approaches in other national direction instruments within Package 1.

### ***Theme 4 – Transitional Arrangements and Future System Considerations***

Given the scale of resource management reform underway, the DCC supports the overall approach of not requiring these new national instruments to trigger immediate, standalone plan changes. The proposed "as soon as practicable" implementation timeframe is a pragmatic solution that avoids imposing significant costs on councils for what may be work with a short lifespan.

While outside the direct scope of this consultation, the success of these instruments is intrinsically linked to the stability and quality of the future resource management system. In this context, the DCC wishes to make the following comments for future consideration.

#### ***The need to appropriately balance local democracy with central government direction***

The DCC supports the intent of resource management reform to streamline planning processes and achieve consistency across New Zealand. However, the DCC has significant concerns regarding the reforms' substantial shift of resource management policy-setting from local government to central government. While national-level direction can enhance efficiency and certainty, it risks undermining local democracy by limiting councils' ability to reflect local community aspirations, unique circumstances, and distinct urban characteristics in their planning frameworks. Effective resource management must retain an appropriate balance, ensuring local communities have meaningful opportunities to shape outcomes that directly affect them, including the attractiveness and liveability of urban spaces and the protection of valued aspects of the natural environment, both of which contribute to the economic success of cities by attracting people to live and visit. We urge that reforms preserve this critical role for local decision-making within a clear and integrated national framework, avoiding overly prescriptive approaches that diminish local democratic participation and responsiveness to local needs.



### *The Need for Enduring Legislation*

We cannot afford as a country another repeal and replace when there is a change of government. For councils, communities, and industry to plan and invest with confidence, the replacement resource management legislation must be enduring. This requires broad, bipartisan political support to ensure a stable foundation that is not subject to constant change with successive governments. Legislative instability creates uncertainty and undermines the long-term effectiveness of planning. All Governments should exercise their functions with cost and longevity in mind. Structural changes and major changes in policy settings cost the country dearly and should always aim for broader support.

### *The Importance of a Robust National Planning Framework Process*

The development of the future National Planning Framework is a foundational piece of the new system. It is critical that this process is not rushed. It must be afforded enough time and involve an adequate and genuine consultation process to ensure it is well-integrated, legally robust, and effectively addresses the complex trade-offs inherent in resource management. Applying the same principles of clarity and completeness discussed above to the National Planning Framework itself will be paramount to the success of the entire reform programme.

## **Package 1 – Infrastructure and Development**

### ***Part 2.1: National Policy Statement for Infrastructure***

The DCC supports the Government's intent to strengthen national direction for infrastructure under the resource management system. As a territorial authority responsible for planning and delivering essential public infrastructure, we recognise the need for clear, consistent policy to enable long-term investment and well-functioning communities.

We welcome the proposed NPS-I as a step toward rebalancing national direction to better reflect infrastructure needs. We are pleased to see that infrastructure provided by DCC is included in the definition of infrastructure. However, we consider that substantial changes are required to ensure the NPS-I is workable, implementable, and appropriate under the RMA while being aligned with the broader goals of resource management reform. More work is needed to ensure it appropriately provides for environmental limits, supports efforts to reduce carbon emissions, and climate change adaptation and mitigation. In particular, stronger guidance is needed on how to manage the interface between infrastructure and environmental values, including clear thresholds for when adverse effects must be avoided and when trade-offs may be appropriate based on public benefit and operational need.

The DCC also supports clearer direction to manage reverse sensitivity, ensure cost-effective infrastructure delivery, and recognise infrastructure that has been identified through public spatial planning processes. We seek policies that are directive, clear in purpose, and structured in a way that supports both resource consent decision-making and the development of district and regional plans.

The NPS-I should also support the long-term sustainability of infrastructure delivered through the development process and vested in councils. Policies should ensure this infrastructure is fit for purpose, cost-effective to operate (including consideration of the carbon emissions from



infrastructure operation and maintenance long term), and aligned with council asset planning and service delivery expectations.

In addition, the DCC considers that the NPS-I must more explicitly recognise the rights and interests of takata whenua in infrastructure planning and decision-making. We recommend the inclusion of an additional objective (or amendment to Objective 1) to “support takata whenua rights and interests in relation to infrastructure.” From a te ao Māori perspective, infrastructure should not only enable physical connection and resilience, but also support mana whenua in their roles as kaitiaki and Treaty partners. This objective would ensure that takata whenua values are appropriately considered across the full lifecycle of infrastructure—from spatial planning and project design to delivery and operation.

We further support the proposed policy requiring engagement with takata whenua, but recommend it be strengthened to clarify that engagement must be active, ongoing, and culturally appropriate. Policies should specify that takata whenua must be engaged with, not simply consulted, and that such engagement should occur early in the planning process to help avoid adverse effects. We also encourage the Ministry to embed this principle across the NPS-I and to apply similar approaches in other national direction instruments within Package 1.

Clarity of drafting is critical. Where national direction is not clearly framed, it creates uncertainty and cost for councils, applicants, and communities. The DCC has incurred significant cost in recent years, including taking two cases to the Environment Court to seek interpretation of the National Policy Statement on Highly Productive Land. Costs have also resulted from unnecessarily prolonged plan hearings, mediations, and appeals due to arguments around interpretation. Clear and directive policy reduces these risks and supports more efficient and consistent decision-making.

We encourage the Ministry to refine the drafting to improve clarity and consistency across the policy framework, reduce ambiguity, and ensure the NPS-I can be confidently implemented by councils and infrastructure providers across the country. To support this, DCC staff will provide a detailed technical submission that will make suggestions on provision wording. The DCC encourages officials to consider these suggestions.

## ***Part 2.2: National Policy Statement for Renewable Electricity Generation***

The DCC supports the intent of the proposed amendments to the NPS-REG to enable renewable electricity generation (REG) and align with climate change, resilience, and sustainability goals. The inclusion of additional benefits such as locating generation close to demand and upgrading existing assets is supported, as this reflects the realities of transitioning to a more distributed and resilient energy system.

We support continued provision for the operational and functional needs of REG, including the ability to locate in environments where specific locational constraints apply. It is also appropriate that the NPS-REG supports the continued operation of existing generation assets.

However, the DCC has concerns about the breadth of amended Policy B, particularly its direction to enable “cumulative increases of REG output at any scale and in any location.” This drafting risks undermining protections for areas of high environmental or cultural significance. We recommend more targeted direction to ensure that development remains compatible with the values recognised in section 6 of the RMA and other national policy instruments, and to prevent unintended adverse effects in sensitive locations. To support this, DCC staff will provide a detailed technical submission

that will make suggestions on provision wording. The DCC encourages officials to consider these suggestions.

We also support stronger policy direction to ensure that engagement with takata whenua is meaningful, effective, and leads to tangible outcomes. The NPS-REG should incorporate the same three national requirements proposed in the NPS-I: engaging with takata whenua, considering their values and aspirations, and involving them in infrastructure projects, including those that may affect sites of significance.

To ensure the NPS-REG is effective in practice, the DCC encourages stronger alignment with spatial planning frameworks and long-term infrastructure strategies under the new resource management system. Identifying areas suitable for renewable electricity generation through strategic planning helps avoid future conflicts with urban growth, reduces the risk of reverse sensitivity effects, and ensures that generation can be located where it is most efficient and least constrained. It also enables early community engagement and provides greater certainty to infrastructure providers, councils, and communities about where investment is appropriate and supported.

### ***Part 3.1: National Environmental Standards for Granny Flats (Minor Residential Units)***

The DCC supports the overall intent of the proposed NES-GF to streamline the delivery of minor residential units (granny flats) and improve housing choice within existing urban areas and enable more diverse living arrangements for households and whānau. The DCC recognises that many district plans, including Dunedin's 2GP, already provide for minor residential units and support enabling their development in line with infrastructure capacity. DCC supports the proposed list of matters that cannot be regulated provided the concerns about potential future subdivision can be addressed. It also supports that where a permitted activity standard is not met, the existing district plan rules should apply.

However, the DCC has several concerns about how the proposed NES-GF will operate in practice, particularly in areas with constrained 3 waters infrastructure.

First, it is critical that the NES-GF clearly allows local authorities to apply more restrictive standards where there are identified infrastructure constraints. In Dunedin, for example, the 2GP takes two approaches to this: (1) in all zones, it manages the cumulative effects of ancillary residential units through a permitted activity standard tied to maximum habitable rooms per site to ensure cumulative permitted development stays within 3 Waters network capacity. (2) For areas where intensification (medium density housing) is seen as appropriate but where there are currently infrastructure constraints, the 2GP uses overlays to restrict that intensification until the constraint is resolved. The FDS sets out the programme of infrastructure upgrades needed to lift these constraints, and these are included in our LTP and infrastructure strategy.

Both of these approaches have been essential to avoid overloading fragile infrastructure systems. The NES-GF should explicitly allow for locally tailored controls in these areas, supported by infrastructure assessments or asset management plans.

Second, the rationale for enabling more lenient local standards is unclear. If the purpose of the NES-GF is to provide a consistent national baseline, it may be more effective to apply a fixed size threshold standard (floor area and height), rather than allowing variable approaches that risk





undermining consistency and clarity for applicants and the market (building designers and producers).

Third, the NES-GF is ambiguous about how future intensification is managed — particularly where there may be pressure for minor units to be subdivided or expanded over time through additions. This may leave an unintended planning framework gap that councils should be able to fill without use of the Schedule 1 process. Therefore, the DCC seeks that the NES includes or enables Council to include in their district plans as a direct insert consequential rules that direct or that require the registration of legal instruments that ensure:

- permitted minor units cannot be subdivided into separate titles in future;
- additions to permitted minor units trigger full assessment under district plan rules for multi-unit development.

Fourth, the DCC is concerned that enabling minor residential units as permitted activities may raise the permitted baseline inappropriately. This could limit the ability to decline more intensive proposals that exceed servicing capacity, especially where multiple minor units are developed across a neighbourhood. The NES should provide that minor residential units cannot be considered as part of the permitted baseline for multi-unit development where infrastructure constraints have been identified.

These last two concerns are most important in areas where there is development pressure (particularly areas where intensification will be permitted after infrastructure constraints are lifted).

Finally, the DCC strongly encourages alignment between the NES-GF and the proposed Building (Small Stand-alone Dwellings) Amendment Bill as was highlighted in the submission by Taituarā on that Bill. Using consistent definitions and terminology will help reduce duplication, improve implementation, and reduce costs for both applicants and councils.

### ***Part 3.2: National Environmental Standards for Papakāinga***

The DCC supports the overall intent of the NES-P and is generally supportive of the proposed provisions. Dunedin's 2GP already provides for papakāinga and the DCC considers councils should be able to retain provisions that are more lenient than the proposed NES.

### ***Part 3.3: National Policy Statement for Natural Hazards***

The DCC supports the development of a National Policy Statement for Natural Hazards (NPS-NH) as a necessary step toward a more consistent, risk-based approach to managing natural hazards through the resource management system. However, the value of this NPS will depend on its depth and clarity and at the moment it adds little value.

The DCC offers the following points for consideration:

- **Effectiveness:** One of the key goals of the Government's resource management reform is to streamline national direction, reduce implementation costs, and provide greater certainty for decision-makers. However, the current drafting of the NPS-NH lacks the depth, specificity, and clear outcomes to achieve that goal. Without directive policies, clear thresholds for acceptable risk, and outcome-oriented objectives, this NPS will not meet its intended purpose — and risks adding to implementation costs through uncertainty, litigation, and inconsistent interpretation.





- Support for a national risk framework: A nationally consistent risk matrix is helpful, but refinements are needed to better address risks that are either very frequent with minor consequences or catastrophic but rare. The framework must provide clear guidance on how risk should be assessed and managed where risk is increasing over time due to climate change and what that means for appropriate management responses today. The definition of “significant risk” also needs to be clear enough to support effective policy thresholds and rules, and the NPS should clarify how risk tolerances relate to planning outcomes.
- Coverage of hazards and sectors: We support the inclusion of the seven key hazards but recommend adding wildfire to reflect emerging climate-related risks and the significant expansion of forestry that New Zealand is experiencing. The exclusion of infrastructure and primary production from the NPS is not supported. This creates a major gap, particularly given the strategic importance of infrastructure and the hazard sensitivity of some primary production activities (particularly where they involve hazardous substances). The NPS should either include these activities or be explicit about how they will be managed through other national instruments. The current definition of “new development” may also leave gaps, particularly where new buildings are proposed on existing developed sites, which may still increase exposure to risk.
- Objectives and policy usefulness: The objective (OB1) focuses on promoting risk-based decision-making but does not clearly state the intended outcome, limiting its value as a guiding statement. In addition, the proposed policies primarily describe processes rather than providing the thresholds or direction needed to guide decision-making on what constitutes acceptable or unacceptable levels of risk under different circumstances.
- Support for defining significant risk and applying a proportionate management response: We support the approach to aligning planning responses with the level of risk, and recommend further guidance on the appropriateness of development in high and very high risk areas. However, current drafting risks ambiguity—for example, Policy 5 implies that hazard risks may be exacerbated if not “significant,” which is not a sufficiently robust standard. Greater clarity is also needed on the appropriate thresholds of risk and their consequences for development rights.
- Risk in permitted activity contexts: The NPS should provide clear guidance on how natural hazard risks are to be managed where activities are permitted and no consent is required. This is essential to ensure the effectiveness of the direction and to avoid perverse outcomes, especially in areas of medium or high risk.
- Best available information and implementation support: We support the requirement to use the best available hazard information but note that further national guidance is needed to ensure consistency. Without clear criteria for what qualifies as “best available,” planning decisions may remain open to legal challenge. Central government support will be particularly important for small and less-resourced councils.

In summary, if sufficiently well developed and directive, this NPS has the potential to reduce costs by streamlining risk assessment approaches, supporting consistent decision-making, and avoiding litigation. However, as it stands it is too generic and risks creating uncertainty and adding to the burden of interpretation and plan development without improving outcomes.





We also offer these forward-looking thoughts. Under the future resource management system, the removal of regional policy statements makes this NPS the primary source of guidance on hazard risk. If the NPS (as updated for that change) is not sufficiently detailed or directive, it may result in greater ambiguity and reduced capability for councils to manage natural hazards effectively, particularly at the combined regional plan-making stage. We encourage officials to benchmark the level of detail provided against recent RPSs including the Otago RPS, which, although not perfect, offers a useful model.

## **Package 2 – Primary sector**

### ***Part 2.2: National Environmental Standards for Commercial Forestry***

The DCC supports the intention to improve the clarity and workability of the National Environmental Standards for Commercial Forestry (NES-CF). As with other national direction, clarity of drafting is critical to avoid the significant costs associated with prolonged hearings and legal challenges over interpretation.

The DCC strongly opposes the proposed removal of afforestation management plans (Regulation 10A). The rationale that these plans are redundant is incorrect. For the DCC, these plans provide essential, upfront information that is critical for determining compliance with permitted activity standards in a cost-effective manner. They are a key mechanism for verifying setbacks, identifying potential wilding risk, and ensuring proactive management of effects on sensitive areas like Significant Natural Areas (SNAs). Removing this requirement will not reduce the need for this information; it will simply transfer the cost and burden of information gathering from the operator to the Council, requiring more extensive site visits and research by officers at ratepayers' expense. This creates inefficiency and increases the risk of non-compliance going undetected.

### ***Part 2.4: National Policy Statement for Highly Productive Land***

The DCC has significant concerns with the proposed amendments to the National Policy Statement for Highly Productive Land (NPS-HPL). While we support the objective of protecting New Zealand's most valuable soils for food and fibre production, the proposed changes risk creating major implementation issues, undermining local decision-making, and increasing costs for councils. As we have experienced first-hand with the current NPS-HPL, ambiguous or poorly sequenced national direction leads directly to costly litigation and uncertainty for councils, landowners, and our community.

First, the proposal to implement a blanket removal of Land Use Capability (LUC) Class 3 soils from the definition of HPL is a blunt instrument that undermines effective planning, especially in light of other national direction which will have the effect of encouraging unplanned growth. Council supports a more nuanced approach where local authorities, who hold the best knowledge of local conditions, are empowered to determine the most appropriate locations for urban development across all land classes, particularly where, as Dunedin can, we can demonstrate that we have 30 years of plan-enabled capacity in our District Plan already.

If restrictions on LUC 3 land are to be eased, this should be strictly limited to enable planned, large-scale urban development and not for ad-hoc unserviced large lot development or rural lifestyle blocks, which would still result in the permanent loss of productive capacity (as well as pressure on transportation infrastructure) for minimal housing capacity gain.



Second, the introduction of Special Agricultural Areas (SAAs) is supported in principle as a necessary tool to protect regionally significant land that may be excluded by the removal of LUC 3. However, for this tool to be effective, it is critical that:

- Local government leads the identification process, ensuring local economic and productive realities are recognised.
- That highly productive agricultural area other than vegetable growing can be identified.
- Once identified, SAAs are afforded the same level of protection as HPL to ensure the policy has integrity.
- Clear guidance is provided on how the values of SAAs are to be balanced against other national direction, particularly the National Policy Statement for Freshwater Management, to avoid policy conflicts.

Third, the proposed timing and transition arrangements are unworkable and create significant risk and cost for councils. Giving immediate effect to the removal of LUC 3 protection before mapping is complete creates a policy vacuum that will encourage speculative private development proposals. A more appropriate transitional arrangement would be to amend the policy to allow only council-initiated or council-supported plan changes (e.g. that are included in a council initiated or adopted plan change at notification or that are added via a Council decision on a submission on a plan change or by the Environment Court based on a signed consent memorandum) to rezone LUC 3 land for urban purposes (fully serviced urban land). This approach ensures that development is strategic and planned, rather than ad-hoc, while still providing a pathway for growth. This targeted approach should be adopted in the interim, the timeframe for mapping must be extended, and broader protections against private plan changes or changes sought through submissions on plan changes or appeals that do not have Council support must remain in place until new HPL and SAA maps are operative.

The DCC has already incurred significant costs seeking legal clarity on the current NPS-HPL. The proposed amendments, particularly the lack of detail regarding the status of SAAs, threaten to repeat this cycle. We urge the Ministry to provide clear, unambiguous, and well-sequenced national direction. To support this, DCC staff will provide a detailed technical submission with suggestions on specific provision wording.

### ***Part 2.5: Multiple instruments for quarrying and mining provisions***

The DCC supports the principle of aligning terminology for quarrying and mining across the relevant national direction to improve consistency.

However, the DCC holds significant concerns that the proposed changes will result in the further loss of New Zealand's most vulnerable and precious ecosystems. We wish to highlight the government's own analysis, which rightly concludes that for our remaining wetlands, damage is often irreversible—"once it is gone, it is gone."

These are not just fragile environments; they are the last remnants of a natural heritage that has been diminished by over 90%, and they hold deep cultural significance that has not been adequately addressed in this proposal.



While DCC supports the Government's intent to create a consistent and workable consent pathway for essential quarrying and mining activities, we are concerned the proposed changes weaken the gateway tests to a degree that unacceptably compromises the protection of Significant Natural Areas (SNAs) and wetlands, with potential implications for mana whenua and taonga species. Rather than simply removing key protective clauses, the Council advocates for a more balanced approach that seeks to appropriately weight benefits with costs.

For our most sensitive environments, such as SNAs and wetlands, a robust assessment framework is non-negotiable. We recommend an alternative clear, multi-part test that provides a high, but certain, pathway for genuinely critical projects. This should require a proposal to first demonstrate significant public benefit and a lack of practicable alternatives (but removes the uncertain wording about 'that could not otherwise be achieved using resources within New Zealand'). It must also include a final weighing test, ensuring the benefits outweigh the permanent loss of these irreplaceable environmental and cultural values. This structured approach ensures that decisions are transparent, defensible, and uphold the principles of the RMA.

For Highly Productive Land, the Council supports a more proportionate and tailored approach. The value of HPL is different from that of an SNA, and the policy should reflect this. We propose a bespoke gateway for HPL that would still require a project to demonstrate regional benefit and show that 'the proposed location is the best practicable option to meet the purpose of the activity, considering logistical, geological, and transport factors. It would also seek that activities seek to minimise loss of productive capacity through design and also provide a post-closure rehabilitation plan that would seek return of productive capacity as far as practicable. To support this, DCC staff will provide a detailed technical submission that will make suggestions on provision wording. The DCC encourages officials to consider these suggestions.

The DCC is also concerned about the proposal to add 'operational need' as a gateway test for activities affecting wetlands.

### **Package 3 – Freshwater management**

#### ***Part 2.1 and Part 2.2***

The DCC has previously made submissions in Otago regional policy and plan-making processes on the challenges that may arise for the DCC as water services provider due to the application of the hierarchy of obligations. The DCC would recommend that updates to the NPS-FM retain the hierarchy of obligations but with appropriate modifications to ensure large public drinking water suppliers like the DCC are enabled to continue providing water supply for the health and wellbeing of communities, including growing communities.

The DCC further supports that Policy 5 and implementation clause 3.4 of the NPS-FM 2020 remain unchanged. This is of great importance as much of the planning and justification within the Interim Treaty Impact Analysis for the Freshwater Package relies on these provisions remaining as they currently are (alongside 3.1(2)(a)) of the NPS-FM, r 6(1) of the NES-F, and r 19 of the Stock Exclusion Regulations). Council would benefit from clarification on what "communities" means within Policy 5 of the NPS-FM 2020.

#### ***Part 2.3: Providing flexibility in the National Objectives Framework***





The DCC supports the compulsory values listed in the National Objectives Framework and suggests that "(Drinking) water supply" should be moved from the optional values list to the compulsory values list.

As a drinking water provider, the DCC provides drinking water to domestic and non-domestic users in most urban areas within the city boundaries. The ability to supply, or have supplied, drinking water to homes and businesses is essential for the Council and its community. Elevating "(Drinking) water supply" to be a compulsory value in the National Objectives Framework would recognise the importance of providing drinking water in the quantity, and to the quality, required for the health and wellbeing of our community.

### ***Part 2.5: Addressing water security and water storage***

The DCC supports the inclusion of provisions permitting water security or storage to be included in the NPS or addressed in some other legislation at a national level.

While acknowledging the Government's commitments to addressing issues outlined in the 'Part 2.5 - Addressing water security and water storage' discussion paper, the DCC is concerned that the discussion paper focusses primarily on the need to provide water storage for the primary sector. The DCC considers that the ability for drinking water providers, such as the DCC, to have various pathways for long-term water security, including water storage, is essential to respond to: demand due to urban growth; changes to stream flow due to climate change; changes to abstraction rules specified by resource consents (particularly as existing resource consents expire and must be renewed in the mid-2030s); and to support the health and wellbeing of the community.

As a drinking water supplier, the DCC has a number of obligations and duties, including those under the Water Services Act 2021 (WSA). The WSA sets out the duties of the DCC as a drinking water supplier, including the duties to supply safe drinking water and to provide sufficient quantity of drinking water.

In order to meet the water demands of a growing population and expanding urban areas, the DCC, as a drinking water provider, has the responsibility to secure adequate water supply to provide drinking water to new homes and businesses within the city's serviced areas and to expand the areas it services to facilitate growth. National standards permitting large-scale off-stream water storage provides a potentially viable option for councils to consider when determining how best to plan for anticipated future growth and increased water demand, while balancing obligations for protecting the environment.

Council agrees that is important to have standards for off-stream water storage requiring good site selection, management and construction practices, as outlined in 'Appendix 2: Draft standards for off-stream water storage' of the discussion document.

Draft standard 6 focuses on the owner of the water storage being the landowner. National standards need to be able to be applied to drinking water providers as well as the primary sector, and therefore should better recognise that the landowner and the water storage owner may not always be the same person.

The DCC supports the intent of draft standard 7, authorising the 're-take' of water from the storage structure and that water taken for storage is done so in accordance with a regional plan or resource consent.



Councils often lease land areas for the location of water services infrastructure and therefore may not be the landowner in many locations where it owns infrastructure for the treatment, storage, or distribution of drinking water.

The intent of draft standard 7 is appropriate to ensure that water storage is carried out in conjunction with appropriate water take approvals and that use of water from off-stream storage areas does not require any further approvals to use the water.

The DCC supports the inclusion of both small-scale and large-scale water storage being enabled through new standards. Council considers it essential that such provisions apply to drinking water providers, as well as being available to support the primary sector.

The DCC's reliance on run-of-river sources for water means that there will be periods when the supply of water will be restricted due to river flows dropping below minimum flow thresholds. Solutions to this are to diversify the types of water sources, which can be achieved by increasing the contribution from groundwater and/or from on-line and off-line water storage. The advantage of surface water storage reservoirs is that they buffer seasonal variations in supply, capturing flow in winter for use in summer.

The national standards should enable both small-scale and large-scale storage of water to facilitate both the primary sector and drinking water providers to manage water demands throughout the year, while protecting the environment. Having off-stream water storage as an option for consideration may also reduce the need for water service providers to have to explore options for in-stream storage, or new water sources and apply for additional consented water takes. Off-stream water storage is well suited to a permitted activity status as it is likely to have fewer environmental effects than alternative options.

### ***Part 2.9: Including mapping requirements for drinking water sources***

The DCC considers that requiring regional councils to map SWRMAs for applicable drinking water supplies in their regions will contribute to improving drinking water safety. The DCC considers regional councils should be required to publish SWRMAs.

The DCC supports the proposed approach of delineating three default at-risk areas for protecting sources of drinking water. It is essential that regional councils are required to engage with drinking water suppliers to understand locally-specific risks to sources of drinking water both (a) when delineating the three areas for mapping purposes and (b) during the resource consent process.

The methodology for mapping SWRMAs does not obviously capture open raw water storage reservoirs and should be updated to include these drinking water sources. The DCC notes that Taumata Arowai, in its capacity as drinking water regulator, is now encouraging drinking water suppliers to register open raw water storage reservoirs as drinking water sources. This reflects the importance of protecting and monitoring water quality in these sources, as their water quality can be impacted by land use activities in the surrounding environment. This is especially the case where there are some natural inflows from the surrounding catchment into the reservoir.

It is important for risks to source water quality to be managed for all sizes of drinking water suppliers. However, the DCC recognises it may be practical in the short-term for mapping requirements to apply to specified types / sizes of suppliers initially to ensure the highest risks are addressed first. The DCC suggests MfE considers developing risk-based criteria to guide the staged



implementation of SWRMA mapping requirements. Size of population serviced by the drinking water supply is likely to be a relevant consideration in any risk-based criteria.

## **Conclusion**

The DCC thanks MfE for the opportunity to submit on these significant national direction proposals.

We strongly encourage continued engagement with local government and experienced practitioners, particularly through the release of full exposure drafts for consultation. Given the inherent complexity of planning, careful consideration and thorough testing of the detail is crucial. Insufficient scrutiny significantly heightens risks of litigation and unnecessary costs for councils and communities.

Ultimately, if faced with the choice between quickly implementing national direction under the RMA—despite significant uncertainty—and taking additional time to ensure clarity, coherence, and robustness through the Phase 3 reforms, the DCC strongly recommends prioritising quality over expediency. Experience shows that investing the time to "do it once and do it right" leads to better outcomes, greater certainty, and fewer unintended consequences for all stakeholders.

Kā mihi

Jules Radich  
**MAYOR OF DUNEDIN**