BEFORE THE HEARING PANEL

UNDER THE	Resource Management Act 1991
IN THE MATTER OF	Submissions on the Exemptions Version of the Proposed Waitaki District Plan
BETWEEN	**WAITAKI DISTRICT COUNCIL** Local authority
AND	**FEDERATED FARMERS OF NEW ZEALAND INC** Submitter number 246 Further submitter number FS246

EXEMPTIONS VERSION OF THE PROPOSED WAITAKI DISTRICT PLAN

PLANNING EVIDENCE OF KATE SANNAZZARO ON BEHALF OF NORTH OTAGO FEDERATED FARMERS OF NEW ZEALAND (INCORPORATED) – HEARING STREAM 2

14 SEPTEMBER 2026

FEDERATED FARMERS OF NEW ZEALAND

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INTRODUCTION

1. My name is Karen (Kate) Lisa Sannazzaro. I am currently employed by Federated Farmers of New Zealand (Incorporated) as a Principal Planner. I am authorised to speak on behalf of Federated Farmers, including North Otago Federated Farmers of New Zealand (Incorporated) (**Federated Farmers**).

2. I hold a Bachelor of Science (Honours) with First Class Honours, majoring in Geology from the University of Auckland.

3. I have over twenty years' experience in the field of planning and environmental policy, many of those with a particular focus on three waters (drinking water, wastewater and stormwater) infrastructure management and freshwater management. This has included:

   (a) Nine years at Otago Regional Council: three years as a Consent Planner, and six years as a Senior Policy Analyst developing regional plans.

   (b) Nine years at Dunedin City Council as Three Waters Regulation and Policy Team Leader, with responsibilities including oversight of consents held by the Council; input into the District Plan, subdivision and land use consents, and building consents; and providing advice on the Code of Subdivision and Development.

   (c) Two years as Senior Policy Analyst at the Ministry for the Environment, working in the Urban Water team and providing advice on the interface of Three Waters Regulatory Reform with the Resource Management Act 1991 (**RMA**).

   (d) One year as Lead Policy Advisor Wastewater and Stormwater at the Water Services Regulator Taumata Arowai.

   (e) Two years at Federated Farmers, with involvement in the planning processes of seven proposed District Plans, predominantly in the South Island.

4. I am a Full Member of the New Zealand Planning Institute.

5. I have read and agree to comply with the Expert Witness Code of Conduct set out in section 9 the Environment Court's Practice Note 2023.

6. I have read and reviewed the following documents:

(a) Hearing Minutes 1, 2, 3, 4 and 5.

(b) The Exemptions Version of the Proposed Waitaki District Plan dated 15 January 2026 (**PDP**).

(c) The Plan Stop Exemption Application made by Waitaki District Council to the Minister, dated 6 October 2025.

(d) Relevant evaluation reports prepared under section 32 of the RMA (undated).

(e) Reports prepared under section 42A of the RMA, by Ms Briar Belgrave for Infrastructure, Stormwater, and Earthworks (dated 25 August 2026), and for Transport (dated 25 July 2026).

(f) Federated Farmers submission dated 16 May 2025, and further submission dated 21 May 2026.

(g) The National Planning Standard 2019 (**NPS**).

(h) The National Policy Statement for Infrastructure 2025 (**NPS-I**)

(i) Relevant parts of the Otago Regional Policy Statement 2021 (**Otago RPS**), and the Canterbury Regional Policy Statement 2013 (**Canterbury RPS**).

FEDERATED FARMERS SUBMISSION

General

7. Federated Farmers made general submissions on the PDP as notified on 1 March 2025, seeking application of good planning practice to support a plan that is simple, clear, and easy to use and understand. This includes through the clear identification of the significant resource management issues the PDP seeks to address. When the issue is understood, the planning framework can be appropriately targeted.

Infrastructure and Transport

8. Federated Farmers generally support the enabling framework of the Infrastructure (**INF**) and Transport (**TRAN**) chapters. However, their primary concern is that the PDP is unclear in how it intends to provide for on-farm infrastructure, which includes water supply distribution systems including for

irrigation, drainage infrastructure, farm roads and tracks, and dairy lanes (herein referred to as '**smaller-scale infrastructure**').

9. Federated Farmers considers that this smaller-scale infrastructure meets the RMA definition of infrastructure. The INF and TRAN chapters do not clearly acknowledge smaller-scale infrastructure, and smaller-scale infrastructure were specifically identified and addressed through other chapters (now withdrawn)[1]. This made the intended application of the PDP framework unclear, with potential duplication and complexity.

10. Federated Farmers seek relief to either:

    (a) Amend the INF and TRAN chapters to better provide for smaller-scale infrastructure.

    (b) Clarify which infrastructure INF and TRAN is intended to apply to, and any exclusions.

11. Following the withdrawal of much of the PDP that provided for smaller-scale infrastructure, and the subsequent gazettal of the National Policy Statement for Infrastructure 2025 (**NPS-I**), Federated Farmers position on the alternative relief has evolved. Its preferred relief is now that all infrastructure falling within the RMA definition is appropriately recognised and provided for the INF chapter.

12. The same statutory definition applies to infrastructure relevant to the TRAN chapter. While Federated Farmers original submission identified some uncertainty as to its scope, their concern is less significant because the provisions in the TRAN chapter are clearly directed toward "on-site transport facilities" and the "transport network". As a result, Federated Farmers do not consider amendments to TRAN are necessary to the same extent as for INF.

Earthworks

13. Federated Farmers submission:

[1] For example, now withdrawn ECO-R1 and EW-R2 provided for earthworks associated with existing farm tracks, water supply and irrigation systems, and stormwater infrastructure, and stormwater drains.

(a) Seeks that earthworks provisions are contained within the Earthworks (**EW**) chapter, except where provisions appropriately relate to infrastructure chapters, to improve plan usability;

(b) Raises a general concern on the application of the EW chapter to infrastructure activities, including the relationship between EW and INF provisions;

(c) Seeks various adjustments to the EW provisions to ensure they are pragmatic and workable and enable routine farming activities to be undertaken appropriately.

14. A number of EW provisions subject to Federated Farmers submissions have subsequently been withdrawn, both in full or in part.

Stormwater

15. Federated Farmers submission generally seeks that provisions in the Stormwater (**STORM**) chapter are proportionate and appropriately targeted in the rural environment to address the issue of concern, and that they do not add unnecessary complexity to the broader regulatory framework which includes regional council regulation of stormwater discharges, and construction of stormwater systems under the Building Act 2004.

LAYOUT OF THIS EVIDENCE

16. This evidence sets out my professional planning opinion in response to the analysis and recommendations in the officers' reports prepared by Ms Belgrave. It also explains Federated Farmers position in response to the withdrawal of various PDP provisions.

17. Table 1 below sets out the layout used and the corresponding page or paragraph numbers, to assist Panel navigation:

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EXPERT PLANNING EVIDENCE

PART A: GENERAL PLAN MATTERS

Matters carried over from Hearing Stream 1

18. My evidence for Hearing Stream 1 addressed the benefits of identifying the significant resource management issues the PDP seeks to address, including through chapter overviews[2], and of ensuring that plan provisions are connected, simple and streamlined[3].

19. In Minute 3, the Hearing Panel noted and agreed with the s42A report writer's response to submissions 246.1, 246.3 and 246.7, that these matters be considered in the relevant future s42A reports, in the context of the specific topics addressed by those reports.

20. In my opinion, Hearing Stream 2 provides an opportunity to apply those considerations, particularly in relation to the INF, STORM and EW chapters. In my view, Federated Farmers relief sought may assist in achieving a more coherent and effective planning framework.

General comments on the s42A reports

21. Other than generally noting that further submissions were made, the s42A reports generally do not identify or substantively respond to the matters raised in those further submissions, including where a further submitter has offered alternative relief. In my opinion, this makes it difficult to understand how those matters have been considered in the s42A analysis and recommendations. I address this further in my responses to the relevant s42A reports.

22. I note that the s42A report sometimes addresses submission points relating to provisions that have subsequently been withdrawn, either in whole or in part. For the purposes of my evidence, I have responded only where I consider it necessary to do so. In my view, addressing submission points in relation to provisions that are no longer proposed has unnecessarily complicated the consideration of the issues that remain live before the Panel.

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2 Submissions 246.1 and 246.42.

3 Submissions 246.2, 246.3 and 246.7.

PART B: RESPONSE TO INFRASTRUCTURE S42A REPORT

Recognising all infrastructure

23. Throughout her s42A report, Ms Belgrave has not accepted Federated Farmers position that smaller-scale infrastructure associated with primary production, including water supply and drainage infrastructure, is "infrastructure" for the purposes of the PDP. Consequently, Ms Belgrave has also recommended not accepting the submission points seeking greater clarity and provision for that infrastructure in the INF Chapter.

24. Ms Belgrave has stated her position throughout the s42A report. Examples include:[4]

> *However, I do not support broadening the INF chapter to include private farm infrastructure. The definition of Infrastructure within the Resource Management Act 1991, and reinforced by the NPPS-I, is directed towards public and network infrastructure that provides services to communities, rather than privately owned farm infrastructure associated with primary production activities. In my opinion, the INF chapter is therefore appropriately focused on infrastructure of a public or network utility nature.*
>
> *I do not recommend these amendments. As discussed in this report, the INF chapter is intended to manage infrastructure within the scope of the RMA and higher order planning documents, rather than infrastructure associated with individual farming operations.*

25. I disagree with these conclusions. In my opinion this reasoning confuses "infrastructure" with "public or network infrastructure".

26. The RMA definition for infrastructure[5] includes:

> *(e) a water supply distribution system, including a system for irrigation:*
> *(f) a drainage or sewerage system:*
> *(g) structures for transport on land by cycleways, rail, roads, walkways, or any other means:*

27. There is no qualification in the definition that infrastructure must be publicly owned, serve a community, or be a network utility. In my opinion, infrastructure may be privately owned or associated with an individual farming operation and still fall within the RMA definition.

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4 Illustrative examples expressing this position are provided at paragraph 213 and 365 of the s42A Report: Infrastructure.

5 In section 2 'Interpretation' of the RMA

28. It is my opinion that such interpretation is consistent with new national direction. The NPS-I adopts the RMA definition of infrastructure (with specified additional infrastructure) and does not introduce a public-ownership or community-service limitation[6].

29. I note that the category of "regionally significant infrastructure" (**RSI**) is separately defined in the Otago RPS and Canterbury RPS which is also incorporated in the PDP. In my opinion, providing for smaller-scale infrastructure in the INF chapter would not diminish or undermine the distinct status or provisions applying to RSI.

30. The National Planning Standard (**NPS**) states:[7]

> *Provisions relating to energy, infrastructure and transport that are not specific to the Special purpose zones chapter or sections must be located in one or more chapters under the Energy, infrastructure and transport heading.*

31. On the basis of the RMA definition of infrastructure, and direction from the NPS-I and NPS, it is my opinion that Ms Belgrave has erred in her assessment. Water supply distribution systems, including for irrigation, drainage systems and structures for transport on land, are infrastructure as a matter of statutory definition. In my opinion, the PDP should address all infrastructure (whether private or public) within its INF, TRANS and ENG chapter as appropriate, as required by the NPS, rather than exclude it on the basis that it is privately owned or associated with primary production.

32. Where Federated Farmers seek amendment to various provisions, Ms Belgrave has proceeded on the premise that smaller-scale infrastructure is not "infrastructure", meaning her assessment of Federated Farmers relevant submission points has not properly addressed their substance.

33. In my opinion, the appropriate question is not whether smaller-scale infrastructure is "infrastructure", but how infrastructure of different types, scales, ownership and effects should appropriately be provided for and managed by the PDP, and what justification might support exclusion of certain types of infrastructure from the INF chapter.

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6 NPS-I section 1.4.

7 NPS, section 7, District-wide Matters Standard - Mandatory directions – Energy, infrastructure and transport, clause 5.

34. It is my opinion that the Panel should reconsider the submission points on whether the relevant activity or structure falls within the statutory definition of infrastructure, and following that, the appropriate planning provisions having regard to the scale, ownership, purpose and effects of infrastructure.

Clarifying Federated Farmers position of support

35. I note that Ms Belgrave also appears to have persistently misunderstood Federated Farmers position of support on individual provisions the INF chapter, and this repeats throughout her s42A report. For example, where the relief sought was to retain that provision as notified, Ms Belgrave states:[8]

> *FFNZ [246.50] supports INF-O1, provided the INF chapter applies to all infrastructure, including farm infrastructure. As discussed in section 7.5 I do not support expanding the scope of the chapter to include private farm infrastructure.*

36. In Appendix 2, she recommends this submission point is rejected.

37. The Federated Farmers submission states support for a number of INF provisions. In their reasons for making the submission, they clarify their interests arise from the need to ensure appropriate provision for farm infrastructure.

38. In my opinion, the submission points should be reconsidered according to the actual position stated by Federated Farmers. Ms Belgrave's evaluation of Federated Farmers' submission treats their supports as being subject to a qualification that is not expressed in the relevant submission point.

Enabling maintenance – policy INF-P4

39. Policy INF-P4 enables provision of infrastructure, with clause 4 requiring maintenance, repair or removal of existing infrastructure within an overlay to occur only where it "does not adversely impact" on the identified values and characteristics of the overlay.

40. Federated Farmers submission states that this is unnecessarily restrictive for routine and critical maintenance work and seeks amendment of clause 4 to instead provide for adverse effects that are no more than minor and allowing for them to be avoided, remedied or mitigated.

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8 At paragraph 231 of the s42A Report: Infrastructure.

41. Ms Belgrave concludes:[9]

> *However, I do not support requiring adverse effects on overlays to always be avoided, nor introducing an "effects no more than minor" threshold. The appropriate management of overlay values is addressed through the relevant overlay provisions and associated activity status framework.*

42. In my opinion, the wording “does not adversely impact” used in INF-P4 sets an unnecessarily stringent and potentially unrealistic standard for the maintenance and repair of existing infrastructure. In my opinion, some maintenance activities may have minor adverse effects on an identified value or characteristic despite being necessary to maintain the function, safety and resilience of existing infrastructure. The current requirement that there be no adverse impact does not provide for this balance.

43. Further, in my opinion, this approach is difficult to reconcile with the NPS-I, which requires the benefits of infrastructure, including its operation, maintenance and resilience, to be recognised and provided for[10].

44. Many of the overlays have been withdrawn from the PDP, with Historic Heritage (limited to the Oamaru Historic Area), Natural Hazards and Coastal Environment being the chapters in which they are addressed. Other overlays are expressly provided for within the INF chapter. In my opinion, INF-P4 should be considered in the context of the provisions that remain relevant. A more proportionate approach would be to anticipate minor adverse effects where they can be appropriately avoided, remedied or mitigated.

Rules and standard for water supply and drainage – INF-R11, INF-R18, INF-S9

45. Rule INF-R11 provides for community irrigation and stock water races, public open drains and constructed channels. Federated Farmers submission seeks deletion of the word “community” on the basis that irrigation and stock water races are infrastructure regardless of its ownership or scale[11]. The s42A report

9 At paragraph 364 of the s42A Report: Infrastructure.

10 NPS-I, e.g. Policies 2, 4, 7, 8.

11 Submission 246.70.

recommends the rejection of the submission to delete the qualifier "community".[12]

46. In my opinion, this approach is problematic because, if the community and public qualifiers are retained, then private irrigation, water supply and drainage infrastructure would need to be assessed under rule INF-R18 being "new infrastructure not otherwise provided for or subject to any other rule in this chapter".

47. In turn, Rule INF-R18 is subject to standard INF-S9, which provides that new infrastructure not located in the road reserve or rail corridor, must not be located within a riparian margin or coastal margin. There is a stated exception to allow for infrastructure that crosses a river along a bridge or structure.

48. Consequently, smaller-scale water supply and drainage infrastructure may be subject to a blanket 10-20 m setback, even though that infrastructure may have a functional or operational need to be located within, or directly connected to, a waterbody or its margin. There are no permitted activities for works within the riparian margin. Non-compliance with this setback requirement triggers the need for a resource consent.

49. In my opinion, this creates a significant gap in the proposed provisions. Water supply and drainage infrastructure will, by their nature and function, sometimes need to connect to or be located adjacent to waterbodies.

50. In my view, a better approach is to provide an appropriate pathway where there is a demonstrated functional or operational need for its location within a riparian margin, for example, though amendments to INF-R11, rather than relying on INF-R18 and INF-S9 to regulate it as infrastructure "not otherwise provided for".

51. There are likely to be many instances of farm water supply and drainage infrastructure that would need to be located within, or directly connected to, a riparian margin. In my view, the effects associated with such smaller-scale infrastructure are likely to be limited, particularly when compared with community or public scale water and drainage infrastructure that is permitted within riparian margins under INF-R11. I consider that requiring resource

[12] At paragraph 620 of the s42A Report: Infrastructure.

consent in every instance, irrespective of the scale, nature or functional need for the infrastructure, may result in a regulatory response that is disproportionate to the effects being managed.

52. The Federated Farmers submission also requests amendment to INF-S9 to ensure that infrastructure with an operational or functional need to locate within riparian margins is appropriately provided for in the setback requirement[13].

53. The s42A report records this submission point as supporting INF-S9 in full, and consequently the requested amendment is not evaluated[14]. In my opinion, this is an error in the recording and assessment of Federated Farmers submission.

54. From my perspective, the requested amendment warrants consideration having regard to the direction the NPS-I, and the need for an integrated approach with regional planning framework, which permits many structures and associated activities within the beds, banks and margins of waterbodies. I consider the INF-S9 provisions should recognise circumstances where infrastructure has a genuine operational or functional need to be located within a riparian margin.

Recommended exclusion of INF-R11 from overlays

55. In her s42A report Ms Belgrave accepts Kā Rūnaka's submission on INF-R11 in part,[15] to exclude the rule from applying within overlays, and recommends amendment of the rule to add the words "*located outside of any overlay*".

56. Her reasoning for recommending this amendment is that the excavation and ground disturbance associated with constructing community irrigation and stock water races, public open drains and constructed channels has the potential to adversely affect the values and characteristics of overlays. Federated Farmers further submission opposed Kā Rūnaka's proposed amendment.

57. I consider the recommended amendment warrants further evaluation because in my opinion, it would have a wider impact than appears to be intended in the s42A report. The recommendation would exclude INF-R11 from applying to the

13 Submission 246.82.

14 At paragraphs 850-854 of the s42A Report: Infrastructure.

15 Submission 251.110 at paragraph 621 of the s42A Report: Infrastructure.

specified infrastructure whenever it is located within any overlay, regardless of the nature of the overlay or the particular effects associated with the activity.

58. An overlay is defined by the PDP as "*an area, item, site or place that has distinctive value, risk or other factors that may require management and is identified spatially on the Planning maps. See the General Approach chapter for a list of overlays.*"[16].

59. The list in the General Approach Chapter is extensive[17], ranging from the Waitaki District Road Classification and National Grid Yard to the Alluvial Fan Awareness and Tsunami Hazard overlays. In terms of exempted mapped areas, the overlays are addressed in the Historic Heritage (limited to the Oamaru Historic Area), Natural Hazards and Coastal Environment chapters.

60. In my opinion, it is not clear how overlays in these other chapters are intended to apply to infrastructure otherwise provided for in the INF chapter:

    (a) The INF Introduction does not preclude such application but expressly cross-references only the TRAN and Subdivision chapters.

    (b) The INF rules themselves provide for particular types of infrastructure "within an overlay", "in SCHED2 – Historic Heritage Items", "in the natural hazard overlay", in the "coast natural hazard overlay", with separate provisions for the Nation Grid and Electricity Distribution Yards.

61. INF-R11 provides a specific pathway for community irrigation and stock water races, public open drains and constructed channels, subject to the standards specified in that rule. However, if INF-R11 does not apply within overlays, then:

    (a) Maintenance, repair and removal of existing infrastructure within an overlay would need to be addressed under INF-R2;

    (b) New infrastructure would fall under rule INF-R18, being the default rule for "new infrastructure not otherwise provided for or subject to any other rule in this chapter", and would consequently be subject to the additional standards applying under that rule, including INF-S9 and, where applicable, EW-S5; and

16 Part 1 – Introduction and General Provisions – Interpretation – Definitions of the PDP.

17 Listed in the "Relationship between spatial layers" section of Part 1 of the PDP.

(c) Within flood assessment overlays and coastal natural hazard overlays, maintenance, new structures and associated earthworks would be subject to the more restrictive provisions of NH-R1 – NH-R4 or CE-R4 and CE-R7, which generally preclude such activities as permitted.

62. In my opinion, having to seek approval for this infrastructure via these alternate pathways may be at odds with any potential adverse effects. In this regard, Ms Belgrave's reasoning for recommending the amendment relates specifically to the potential adverse effects of excavation and ground disturbance on the values and characteristics of overlays.

63. However, the recommend amendment would not merely regulate those construction effects. It would remove the specific INF-R11 pathway altogether, potentially changing the regulatory pathway for the full range of activities associated with that infrastructure, including its construction, ongoing maintenance, repair and removal.

64. In my opinion, greater specificity is required as to the planning purpose of the recommended amendment and the particular overlay-related effects it is intended to address. If the concern is principally the effects of excavation and ground disturbance during construction, consideration should be given to whether excluding INF-R11 in its entirety from all overlays is necessary to address that concern, or whether more targeted standards or activity statuses would provide a more proportionate response. This is particularly important given the functional nature of irrigation, drainage and channel infrastructure, and the need for such infrastructure to be maintained and, in some circumstances, located in or immediately adjacent to waterbodies and their margins.

Clarifying the activities covered by INF-R11

65. On a similar note, Ms Belgrave recommends[18] rejecting the submission of Environment Canterbury[19] which seeks amendments to clarify that INF-R11 covers maintenance, repair, upgrade and the construction of new races, drains and channels. I note that the Federated Farmers further submission supported this Environment Canterbury submission.

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18 At paragraph 622 of the s42A Report: Infrastructure.

19 Submission 271.141.

66. Ms Belgrave's reasoning for this rejection is that:

> *…in my opinion, INF-R11 is an infrastructure-specific rule that provides the consenting framework for community irrigation and stock water races, public open drains and constructed channels. Unlike the general infrastructure rules, the purpose of the rule heading is to identify the type of infrastructure to which the rule applies, rather than each infrastructure activity.*

67. I consider that the clarification sought by Environment Canterbury is appropriate. In my view, there is benefit in making clear that INF-R11 applies to the maintenance, repair, upgrading and construction of races, drains and channels, rather than relying solely on the rule heading to identify the activities to which the rule applies. This would improve certainty as to the scope of the rule and reduce the risk that activities associated with this infrastructure are instead assessed under other infrastructure rules, including INF-R2 or INF-R18, which contain different and potentially more onerous standards and activity statuses.

68. In my opinion, the importance of this clarification is heightened if the recommended amendments in response Kā Rūnaka's submission to exclude overlays,[20] are accepted. This is because the consequential change in the way INF-R11 operates in relation to overlays would increase the importance of having certainty as to the activities captured by the rule. In that circumstance, it would be particularly important to ensure that maintenance, repair and upgrading of existing races, drains and channels remain clearly within the scope of INF-R11.

Simplifying and streamlining INF provisions

69. In my opinion, the INF chapter is long and complex, and there is an opportunity to simplify and streamline the provisions. For example, combining INF-R2 and INF-R3, both of which provide for upgrading infrastructure, within and outside of, overlays; or by combining rules INF-R25, INF-R26 and INF-R28, which all provide for different specified activities as a discretionary activity.

[20] Submission 251.110 at paragraph 621 of the s42A Report: Infrastructure.

Relationship of INF with the EW chapter

70. The Federated Farmers submission[21] raises a general concern about the application of the EW chapter to infrastructure activities. In relation to the EW chapter 'user notes' describing how the chapter works with the INF provisions, the Federated Farmers submission requests improved clarification, because the EW chapter itself contains specific rules relating to infrastructure associated with farming activities.

71. Ms Belgrave responds:[22]

> *As discussed elsewhere in this report, the INF Chapter is not intended to provide a specific framework for private infrastructure associated solely with individual primary production activities. I therefore do not consider that farm water supply, irrigation, drainage systems, roads or tracks should be generally exempted from the EW provisions. The notified framework appropriately manages earthworks according to the nature and effects of the activity*

72. In my opinion, this does not address the substance of Federated Farmers concern. Federated Farmers submission does not seek that all earthworks associated with smaller-scale infrastructure be exempt from regulation. Rather, the concern is with how the EW provisions are intended to operate where the earthworks are undertaken as part of infrastructure activities, and whether the interaction between the INF and EW chapters provides a clear and workable regulatory framework.

73. Ms Belgrave's assessment again appears to rely on the premise that farm infrastructure is outside the scope of the INF chapter. As previously set out, my opinion is this premise is not supported by the RMA definition of infrastructure. In any event, whether certain earthworks should be regulated should not depend upon infrastructure ownership or use.

74. In my opinion, the relevant issue should be whether the EW chapter appropriately distinguishes between earthworks undertaken as part of infrastructure activities and other earthworks, and whether the pathway it provides is unambiguous.

75. In this regard, the PDP should provide a clear and internally consistent pathway for earthworks associated with smaller-scale infrastructure, including water

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21 Submission 246.241.

22 At paragraph 894 of the s42A Report: Infrastructure.

supply, irrigation, drainage, roads and tracks, having regard to the functional and operational requirements of that infrastructure and the actual effects of the earthworks.

76. In my opinion, there is an opportunity for the Panel to reconsider the relevant EW provisions and User Notes to ensure that the relationship between the EW and INF Chapters is clear, and that earthworks associated with infrastructure are appropriately regulated according to their effects rather than excluded from consideration on the basis of infrastructure ownership and use.

Standards for infrastructure earthworks - EW-S5 and EW-S6

77. Standard EW-S5 establishes slope, height and depth standards for infrastructure earthworks. The Federated Farmers submission seeks amendments to the riparian setbacks in EW-S5 to exempt infrastructure with an operational or functional need to be located in those margins.[23]

78. Ms Belgrave responds:[24]

> *I consider that riparian margins are sensitive environments that perform important ecological, water quality and natural character functions. While some infrastructure may have an operational or functional need to be located within these areas, this does not justify a general exemption from the standard. In my opinion, the resource consent process provides the appropriate mechanism to consider whether the operational or functional needs of infrastructure outweigh the potential adverse effects on riparian margins on a case-by-case basis.*

79. In my opinion, requiring resource consent under EW-S5 for earthworks associated with new infrastructure in all circumstances, is disproportionate. EW-S5 already exempts earthworks associated with existing infrastructure from the setback requirement. In my opinion, there is little planning justification for treating the potential effects of earthworks associated new infrastructure differently to existing infrastructure, where there is an operational or functional need for that infrastructure to be located within the riparian margin.

80. I consider this particularly relevant where the regional planning framework already provides for the infrastructure and associated works within the waterbody and its banks. For example, under the Regional Plan: Water for Otago, Rule 13.2.1.4 permits the erection of an intake structure fixed on or

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23 Submission 246.259.

24 At paragraph 921 of the s42A Report: Infrastructure.

under the bed of a river, subject to conditions, and Rule 13.5.1 permits associated bed disturbance.

81. In my opinion, a targeted exemption for infrastructure with operational or functional need would provide a more appropriate planning framework, whilst retaining ability to control earthworks where these may give rise to adverse effects.

82. Standard EW-S6 establishes area limits for infrastructure earthworks. The Federated Farmers submission seeks amendments to EW-S6 to ensure maintenance of private infrastructure is appropriately provided for[25].

83. EW-S6.1 places no area limit on earthworks for existing underground infrastructure in any zone, where the works are undertaken by the Council or a network utility operator. For other parties, the maximum area is limited to no greater than 500m^2 in a 12-month period.

84. Ms Belgrave does not support the relief sought by Federated Farmers because:[26]

> *In my opinion, the existing rule framework appropriately recognises infrastructure activities while ensuring that earthworks with the potential to generate greater adverse effects are subject to assessment. Extending the permitted activity standard to additional private infrastructure providers would reduce the Council's ability to consider the effects of larger-scale earthworks in sensitive locations.*

85. In my opinion, this reasoning does not identify why infrastructure ownership is relevant to the effects of the earthworks. The area of earthworks is the relevant consideration. Further, EW-S6.1 is not the only control applying to earthworks: EW-S6.3 regulates the volume and location of earthworks in riparian margins. I consider that the distinction between Council and network utility infrastructure and other infrastructure in EW-S6 is not adequately justified on effects-based planning grounds.

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25 Submission 246.460.

26 At paragraph 932 of the s42A Report: Infrastructure.

PART C: RESPONSE TO EARTHWORKS S42A REPORT

Exemption and withdrawal of Earthworks provisions

86. In preparing is evidence, I evaluated why the Council may have sought an exemption to proceed with EW-R1, but not EW-R2 and EW-R3 - which appear to be designed to work together.

87. The following excerpts are taken from the Plan Stop Exemption Application made by the Council to the Minister.[27] The Minister approved the application in full on 3 December 2025:

Table 1: Exemptions sought and approved by Council

Exemption	***Relevant parts of the PDP***	***Comments***
Energy, Infrastructure, Stormwater and Transport	*…* *EW-S5 to EW-S10* *…*	*…* • *Will need to include earthworks standards that are referenced in the INF rules*
Provisions that have had unintended consequences, are unworkable, or have led to inefficient outcomes, limited to the Earthworks, Temporary activities and Noise provisions in the Operative District Plan	*EW (EW-S1 GRUZ only)*	• *Excluding EW Part B (Quarrying) and Part C (Mining)* • *Only progress EW-S1 (increased m2 and m3) threshold for GRUZ*

Table 2: Provisions to be withdrawn as approved by Council

Chapter	***Notes***
Earthworks (excluding EW-S1 GRUZ threshold)	

88. On 15 January 2026, the Council issued a public notice[28] consistent with this application, that:

(a) Withdrew "Earthworks - EW (excluding EW-S1 GRUZ threshold)"; and

(b) Exempted "Earthworks - EW (EW-S5 to EW-S10)" and "Earthworks - EW (EW-S1 GRUZ only)".

89. In my opinion, the Council's approved exemption, and associated public notice of withdrawal, do not provide clear authority to continue with earthworks

27 Dated 6 October 2025.

28 WDC Public notice of exemptions and withdrawals.

provisions other than certain EW standards, yet the Exemptions Version of the PDP indicates that EW-O3, EW-P6, and EW-R1 are exempt.

90. I raised this matter with Council staff. In response, they have advised me that they consider these "consequential to the exempted provisions, not an expansion of what the Minister granted".

91. In my opinion, it is necessary to include an EW rule to give effect to an the exempted EW standard. It may also be necessary to include an EW objective and EW policy to support an EW rule.

92. However, the requirements for making an exemption application are given in Section 80V(4) of the RMA:

> *If the application relates to parts only of a proposed planning instrument or draft planning instrument, the application must clearly identify the parts of the instrument for which exemption is applied.*

93. "Consequential provisions exemptions" were expressly identified by the Council in their application approved by the Minister. These did not include any further EW provisions. In my opinion, the RMA does not provide for consequential changes in relation to an exemption application.

94. Given the apparent difference between the provisions identified in the exemption application and those subsequently identified in the public notice as exempted and continuing, I consider that this matter warrants consideration by the Hearings Panel. I recommend that the Panel satisfy itself that the Council's approach is within the scope of the exemption granted by the Minister, is otherwise consistent with the requirements of s80V, and is otherwise not withdrawn.

95. This recommendation is not intended to detract from Federated Farmers general support for the Earthworks provisions continuing.

Earthworks general matters

96. Federated Farmers made a general submission regarding earthworks[29], seeking appropriate earthworks provisions be located in the EW chapter, to improve clarity and plan navigation. Some of those earthworks provisions are

[29] Submission 246.4 and 246.240.

now withdrawn[30], however, earthworks rules NH-R4 and CE-R4 remain in the Natural Hazards and Coastal Environment chapters respectively.

97. In their submission, Federated Farmers identifies the direction given by Section 7 of the NPS regarding the location of earthworks provisions. The NPS provides:

> *29. If provisions for managing earthworks are addressed, they must be located in the Earthworks chapter. This chapter may also include:*
>
> *a. provisions for quarries and gravel extraction where managed on a district-wide basis*
>
> *b. provisions for mining where they are managed on a district-wide basis.*
>
> *30. The Earthworks chapter must include cross-references to any relevant earthworks provisions under the Energy, infrastructure, and transport heading.*
>
> *31. The Earthworks chapter must include cross-references to any provisions for mining, quarries and or gravel extraction in a Special purpose zone or zone chapter or section.*

98. Ms Belgrave responds:[31]

> *I consider it appropriate that earthworks affecting particular values identified through overlays are managed within the district-wide chapter responsible for those values and alongside the relevant objectives and policies. The EW chapter Introduction and User Notes provide appropriate direction to those provisions. I therefore do not recommend the restructuring sought.*

99. In my opinion, this response does not address the specific concerns raised regarding the mandatory direction in the NPS. The NPS expressly requires provisions for managing earthworks to be located in the EW chapter, subject to the specific exceptions identified in clauses 29–31. In my view, the provisions in NH-R4 and CE-R4 do not fall within those exceptions and should be located in the EW chapter, with appropriate cross-references where required by the NPS.

100. The Federated Farmers general submission also raises concerns that PDP is unclear with how earthworks provisions for farm (smaller-scale) infrastructure is provided for, and their submission seeks to streamline provisions where

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30 Sites and Areas of Significance to Māori, Ecosystems and Indigenous Biodiversity, Natural Features and Landscapes.

31 At paragraph 78 of the s42A Report: Earthworks.

possible.[32] While Ms Belgrave identifies this submission point in her s42A report,[33] in my view she does not address Federated Farmers concerns.

101. My opinion about the way in which the PDP provides for smaller-scale infrastructure is addressed in my evidence in response to the s42A Report for Infrastructure. In relation to the EW chapter, I acknowledge the potential for confusion and opportunity for streamlining, has been reduced in part, by the withdrawal of a number of provisions.

Earthworks Introduction

102. The Federated Farmers submission requests specific amendments to the EW Introduction to improve clarity, acknowledge track-building as a key earthworks activity, and to acknowledge important exclusions from the definition of "earthworks" to plan users, notably cultivation and installing fence posts[34]. While Ms Belgrave identifies this submission point in her s42A report[35], in my view she does not address Federated Farmers concerns.

103. In my opinion, these proposed amendments would improve the clarity and completeness of the EW Introduction.

The effects of earthworks - policy EW-P7

104. The Federated Farmers submission acknowledges that while policy EW-P7 is helpful at identifying the effects to be considered for earthworks activities, it reads like a list of matters for discretion rather than a policy providing clear direction.[36] Federated Farmers accordingly seek alternative wording intended to provide greater direction to consent applicants and decision-makers.

105. Ms Belgrave responds:[37]

> *I acknowledge that the proposed wording is more condensed. However, I consider the notified policy provides clearer direction on the range of effects that are to be managed and appropriately supports the rules and standards within the EW chapter. Rehabilitation is also specifically addressed through EW-P8. I therefore do not consider the restructuring*

32 Submission 246.4 and 246.240.
33 At paragraph 78 of the s42A Report: Earthworks.
34 Submission 246.240.
35 Paragraph 78 of the s42A Report: Earthworks.
36 Submission 246.248.
37 At paragraph 110 of the s42A Report: Earthworks.

sought would improve the policy framework and recommend the relief be rejected

106. In my opinion, a policy should do more than identify the matters or effects that are to be considered; it should provide clear direction as to how those matters are to be managed. I consider the alternative wording proposed by Federated Farmers would provide greater policy direction to both consent applicants and decision-makers, rather than simply identifying a range of effects for consideration. I also note that EW-P8 has been withdrawn, therefore it no longer provides the policy framework relied upon in in Ms Belgrave's response.

107. I also consider it particularly important that EW-P7 be carefully drafted because, following the withdrawal of parts of the EW chapter, it is now one of only two policies remaining. As the other policy relates specifically to the National Grid Yard, EW-P7 provides the principal policy direction for the management of earthworks more generally, heightening the importance of providing clear and effective direction on how the relevant effects are to be managed.

Earthworks rules and consequential effects of withdrawal

108. The EW chapter was notified with three rules of particular importance to farming activities outside of "sensitive environments":

    (a) EW-R1 enabled general earthworks, subject to thresholds for area, depth/height and slope.

    (b) EW-R2 enabled maintenance of existing assets and infrastructure.

    (c) EW-R3 enabled construction of new farm tracks, subject to thresholds on width, depth/height, and slope, but notably, without an area threshold.

109. Notwithstanding my concerns regarding the scope and progression of the EW chapter (outlined in paragraphs 86-95), the Ministerial exemption for the PDP approved "provisions that have had unintended consequences, are unworkable, or have led to inefficient outcomes", including within the EW chapter.

110. The relevant provision in the Operative District Plan is Rule 4.3.1.14. Clause (a) allows maintenance of a limited range of assets and infrastructure, while clause (b) provides for all other earthworks in the rural zone, where they don't exceed 100 m^3 in volume over 5 years, or 50m^2 in area.

111. In the “grounds for the exemption request” WDC stated:

> *The earthworks provisions that currently have very low thresholds in the ODP (50m^2 and 100m^3 for the Rural General Zone), which has triggered many consents for activities that have minimal, if any effects. Accordingly, the PDP provisions have sought to increase these thresholds considerably (500m^2, excluding building platform) and reduce the consent burden on landowners.*

112. In my opinion, retaining EW-R1 while withdrawing EW-R2 and EW-R3 is not consistent with the stated purpose of the earthworks exemptions to increase thresholds and reduce the consent burden for rural landowners. The withdrawal of EW-R2 and EW-R3 has consequential implications for the operation of EW-R1 that, in my view, need to be addressed.

113. When first notified, the thresholds in EW-R1 did not need to account for new farm tracks or the maintenance of water supply systems, dams and ponds, driveways, accessways, and stormwater infrastructure, because these activities were provided for separately in EW-R2 and EW-R3. Following withdrawal of those rules, those activities will instead be subject to EW-R1, unless they are provided for elsewhere in the chapter.

114. In my view, this materially changes the operation and effect of EW-R1 from the notified framework. In particular, EW-R1 was notified on the basis that the activities now required to be accommodated within it would, in part, be subject to separate rules with their own thresholds. Submitters therefore did not have an opportunity to consider or make submissions on the application of the EW-R1 thresholds to the broader range of rural earthworks that would result from the withdrawal of EW-R2 and EW-R3.

115. I consider that EW-R1 should be renotified to allow affected parties to consider and respond to the changed regulatory framework. For example, submitters such as Federated Farmers may have sought a larger threshold or proposed that certain ancillary rural earthworks be exempt from the thresholds altogether, as is provided for in other district plans.

116. In my opinion repeal of Rule 4.3.1.14.(b) is necessary to ensure its existing 100m^3 volumetric threshold does not continue to operate alongside any new threshold imposed through EW-S1. Applying both thresholds to the same earthworks would introduce two different measures of scale that may not align and could result in an unintended and inappropriate regulatory constraint.

Earthworks standard – EW-S1

117. Notwithstanding my position regarding the consequential effects of the withdrawal of EW-R2 and EW-R3 on the operation of EW-R1, I have also considered the appropriateness of the thresholds contained in EW-S1 against the relief south in Federated Farmers submission.

118. In its submission[38], Federated Farmers:

(a) Opposes the proposed 500m^2 threshold for earthworks in the GRUZ, noting that no explanation was provided as to how it was derived, and proposes amendments reflecting more enabling approaches adopted by other councils in recent years; and

(b) Seeks the addition of "functional or operational need" to the matters of discretion, together with changes to the Note to clarify when a landscape assessment may be required.

119. Ms Belgrave responds:[39]

> *I acknowledge that rural activities can require earthworks over large sites. However, I do not consider sufficient justification has been provided for the significant increases sought. I also consider functional or operational need can be considered where relevant without substantially increasing the permitted threshold. The landscape assessment note appropriately identifies information that may be required depending on the scale, location and effects of an infringement.*

120. Ms Belgrave recommends no changes to EW-S1[40].

Thresholds

121. In my opinion, this response does not adequately address the Federated Farmers submission. In particular, it does not address any evidential basis for the 500m² threshold, or why it may be necessary. This omission is notable because the s32 report identifies the existing rural earthworks threshold as

38 Submission 246.255.

39 At paragraph 169 of the s42A Report: Earthworks.

40 At paragraph 175 of the s42A Report: Earthworks.

"very low" and proposes increased earthworks thresholds as a means of reducing unnecessary consenting requirements.

122. In this regard, earthworks are a component of many daily farming activities, including for farm infrastructure, access, drainage, stock management and other land management activities. An earthworks threshold that is too stringent risks requiring consent for activities that should be appropriately enabled in the GRUZ.

123. I consider the 2500m² threshold to be a credible and appropriate threshold. Such approaches can be found in other local plans, such as:

    (a) Gore: no threshold for fence construction; 2500m^2 for deadholes, rubbish pits, silage pits, farm tracks and farm infrastructure; with a default GRUZ threshold of 1000m^2. [41,42]

    (b) MacKenzie: no threshold for maintenance, fence posts and offal pits; with a default GRUZ threshold of 2500m^2.[43]

    (c) Otago Regional Water Plan: 2,500m² for earthworks associated with residential development.[44]

    (d) Timaru: no threshold for earthworks associated with primary production and ancillary rural activities; with a default GRUZ threshold of 2000m². [45]

124. These provisions demonstrate that higher thresholds can appropriately enable rural activities while retaining regulatory control over larger scale earthworks.

125. The Federated Farmers submission also seeks provision in EW-R1 for separate earthworks activities to occur on large rural sites, through the use of a separation distance[46]. This approach has precedent in the Dunedin 2GP, which applies earthworks thresholds separately to parts of rural sites that are at least 1km apart (acknowledging their overall approach to earthworks is more nuanced than that proposed in the PDP).[47]

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41 Gore District Plan, EW Chapter, EW-R1, EW-R6-R8, EW-R12.

42 For example, the Gore District Plan s32 analysis for earthworks provides a thorough assessment of threshold volumes, as well as heights/depth, setbacks, slope and rehabilitation requirements.

43 Mackenzie District Plan, EW Chapter, EW-R1-R3.

44 Regional Plan: Water for Otago, Rule 14.5.1.1.

45 Timaru District Plan, EW Chapter, EW-R1 and EW-S1.

46 Submission 246.55.

47 Dunedin 2GP, Chapter 8A Earthworks, Rule 8A.5.1.4.c.ii.

126. I consider use of a separation distance a helpful mechanism for recognising the scale of rural properties and the spatial separation of unrelated earthworks. Ms Belgrave dismisses the submission on the basis that she does not consider sufficient justification has been provided.

127. I disagree. The proposed separation distance is intended to distinguish discrete earthworks activities on large rural properties, where the activities may be spatially and functionally unrelated. A 1 km separation distance provides a clear and readily applicable means of achieving this. It also has planning precedent in the Dunedin 2GP. I consider this provides a reasonable planning basis for the proposed provision.

128. Overall, I consider a 2,500 m² threshold, together with provision for appropriately separated earthworks activities, would provide a better balance between enabling ordinary rural activities and managing the effects of larger-scale earthworks.

Matters of discretion

129. It is not unusual for functional or operational need to be identified as a matter of discretion in an earthworks rule[48], particularly where locational constraints may justify earthworks in a particular location.

130. The associated Note states "a landscape assessment may be required for the assessment of this standard". The Federated Farmers submission seeks clarification that this would apply in the ONL overlay only.

131. Ms Belgrave responds:[49]

> *I also consider functional or operational need can be considered where relevant without substantially increasing the permitted threshold. The landscape assessment note appropriately identifies information that may be required depending on the scale, location and effects of an infringement.*

132. In my view, this response confuses two distinct aspects of Federated Farmers submission: the proposed increase to the earthworks threshold and the inclusion of functional or operational need as a matter of discretion. The latter does not depend on the former.

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48 E.g. Gore District Plan EW-R8.

49 At paragraph 169 of the s42A Report: Earthworks.

133. There is currently no express ability to consider functional or operational need in the matters of discretion. I consider this to be a valid and relevant consideration when assessing a consent application for earthworks, and I support its inclusion as a matter of discretion.

134. While landscape provisions have been withdrawn from the PDP, there may be some relevant ONL requirements that will apply through the Operative District Plan. It is my opinion that the Note should be amended to provide greater clarity as to what is intended for landscape assessments associated with earthworks, or, if appropriate, be deleted in its entirety.

PART D: RESPONSE TO STORMWATER S42A REPORT

Understanding the issue

135. In my opinion, the STORM chapter would benefit from clearer identification of the resource management issue it seeks to address[50], together with a more careful evaluation to ensure the proposed objectives, policies and rules align with that issue and with each other[51,52].

136. In its submission[53], Federated Farmers requests that:

    (a) All subdivision, use and development in the GRUZ be excluded from the STORM chapter.

    (b) All subdivision, use and development in the Rural Lifestyle Zone (**RLZ**) be excluded from the STORM chapter, unless the Council can demonstrate that specific parts of the RLZ are problematic in terms of stormwater management.

    (c) For Moeraki, consideration be given to whether those provisions are more appropriately located in the Natural Hazards chapter.

137. Federated Farmers' submission also raises concerns that the Council has not provided sufficient evidence to establish that increased stormwater effects from rural subdivision, land use or development cause adverse effects that justify a regulatory response.[54] In my opinion, the s42A report does not address this concern.[55]

138. The s32 report identifies the issue as "*managing stormwater quantity and quality effects associated with subdivision and development*".[56] In my view, this is a broad statement. It does not sufficiently identify the particular problem or problems sought to be addressed, where those problems occur, or why the proposed provisions are necessary and appropriately targeted.

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50 Submission 246.1.
51 Submission 246.2.
52 See Federated Farmers Planning Evidence for Hearing Stream 1.
53 Submission 246.85.
54 Submission 246.86 and 246.88.
55 At paragraph 106 or 165 of the s42A Report: Stormwater.
56 Stormwater s32 report, section 4.2.

139. Stormwater systems typically intercept, convey and discharge runoff either to a reticulated public stormwater network, or directly to the environment. The regulation of stormwater discharges to land or water is addressed though regional council rules. The design and construction of stormwater systems associated with building work is also addressed through the Building Act 2004 and the Building Code[57] including requirements relating to protection of other property and the provision of appropriate drainage outfalls.

140. The STORM Introduction acknowledges that use of hydraulic neutrality devices, and encouraging water sensitive design, reduces risk of downstream flooding, prolongs the life of stormwater networks and assists regional councils achieve water quality outcomes.

141. However, the s32 report does not explain what regulatory gap, if any, exists between the regional council rules or Building Act and Building Code requirements, or how those regulatory regimes are intended to operate together.

142. Supporting technical evidence to the s32 report:

    (a) Identifies stormwater network capacity and historic flooding, particularly in Oamaru, as drivers for hydraulic neutrality[58]. However, the provisions extend more broadly, including to the GRUZ. In my opinion, the evidence does not clearly establish that the identified problems arise, or are likely to arise, from subdivision, use or development in the GRUZ to the extent that justifies application of the proposed STORM provisions across that zone.

    (b) Provides some evidence in relation to the RLZ,[59] but this is limited to feedback from Council Roading, Building and Waters staff supporting the proposed application of hydraulic neutrality provisions in the RLZ. While the memo identifies potential stormwater management considerations in the RLZ, including the absence of reticulated stormwater services, the potential for increased runoff from larger building areas and curtilages, and possible effects on roadside swales, culverts and natural watercourses, it does not identify, with sufficient specificity, an existing

57 Including Clause E1 (Surface Water)
58 Appendix 1 of the s32 Report for Stormwater.
59 Appendix 2 of the s32 Report for Stormwater.

or anticipated stormwater problem of sufficient scale or significance to justify the proposed provisions.

Nor does it provide an assessment of the nature, location or extent of any such problem, or evaluate whether hydraulic neutrality is the most appropriate or proportionate regulatory response. In my opinion, the memo provides support for the proposition that hydraulic neutrality may be a useful stormwater management tool in the RLZ, but does not, of itself, establish the problem definition or demonstrate the necessity and appropriateness of the proposed provisions.

(c) Identifies relevant issues and actions in relation to Moeraki[60]. In my opinion, however, the relationship between stormwater and the Moeraki Land Instability Overlay is unclear in the PDP: the particular hazard or effect being addressed through the proposed STORM provisions is not identified in the STORM chapter, or alternatively, appropriately cross-referenced to the Natural Hazards chapter.

143. I also note that the s32 report largely assesses the Council's preferred proposal rather than meaningfully testing reasonably available, more targeted alternatives, including whether the identified problems could be addressed through more limited spatial application, activity-specific controls, performance standards or reliance on existing regulatory frameworks.

144. In my opinion, the Council needs to clearly establish the problem to enable the Panel to assess whether the proposed response is appropriate. In particular, the evidence should identify:

(a) the problem, its effects, location and contributing activities;

(b) the regulatory gap, if any, between the District Plan, regional council rules and Building Act;

(c) the relationship between stormwater and the Moeraki Land Instability Overlay; and

(d) why the proposed provisions, rather than reasonably available and more targeted alternatives, are necessary.

60 WDC Moeraki Hazard Map, Report, May 2012; Geosolve letter dated 24 September 2020

145. I consider this is particularly important for the GRUZ. On the evidence presently before the Panel, it is my opinion that the basis for applying the STORM framework is not sufficiently established, and the s42A report does not adequately address that evidential gap.

146. I consider this is partially demonstrated for the RLZ. The evidence identifies some potential stormwater management considerations associated with rural lifestyle development, including the absence of reticulated stormwater services, increased runoff associated with buildings and impervious surfaces, and potential effects on roadside drainage infrastructure, culverts and natural watercourses. However, the evidence does not clearly establish the nature, extent or significance of an existing or anticipated stormwater problem arising from subdivision, use or development across the RLZ, nor does it demonstrate that the proposed provisions are necessary or appropriately targeted to address that problem. In my opinion, the evidence provides some basis for considering stormwater controls in the RLZ, but further evidence or analysis is required to establish the appropriate scope and regulatory response.

147. In my opinion, this supports consideration of whether the identified stormwater issues in RLZ can be addressed through a more targeted and proportionate regulatory response, rather than applying the full STORM framework across the zone.[61]

Proportionality of the GRUZ response

148. The Otago Regional Council (**ORC**) made a further submission opposing blanket exclusion of the GRUZ from STORM provisions. I acknowledge ORC's concern that some rural subdivision and development can generate adverse stormwater effects. I also note that ORC itself accepts that stormwater assessment and management should be proportionate to the scale and nature of the effects likely to arise[62].

149. Indeed, ORC's proposed relief provides a more targeted approach: minor rural development would not require intensive engineered stormwater measures where effects are demonstrated to be minor, while controls would remain

61 Following the principle in *Royal Forest and Bird Protection Society Inc* v *Whakatane District Council* [2017] NZEnvC 51 at [59].

62 ORC further submission.

where development increases impervious surfaces or runoff, alters flow paths, or creates downstream flooding, erosion, sedimentation, infrastructure or receiving-environment effects.

150. I consider this distinction important in the GRUZ. Rainfall and the movement of water across rural land are natural processes. The relevant planning issue is the extent to which development intercepts, concentrates or materially changes these processes.

151. In a rural environment, built or impermeable surfaces will generally comprise only a very small proportion of the wider area contributing to the natural drainage pattern. In my opinion, the fact that development may have some effect does not, without greater evidence, justify applying broad stormwater controls. The evidence should establish the material incremental effect of rural development and why regulating that effect is necessary to manage the identified downstream risks.

152. However, neither the s32 report nor the s42A report establishes why the broader STORM framework is necessary, nor does it evaluate an effects-based and proportionate approach such as that proposed by ORC. The s32 report assesses the Council's preferred provisions; it does not adequately test this alternative.

153. Hydraulic-neutrality provisions are not proposed to be applied to the GRUZ. In response to a submission seeking their extension to the GRUZ, Ms Belgrave concludes:[63]

> *In my view, extending these [hydraulic-neutrality] requirements to all subdivision and development in the General Rural Zone, irrespective of the scale of development or the stormwater management context, would impose additional costs without a commensurate benefit having been demonstrated.*

154. I agree with that reasoning.

155. However, in my opinion the same evidential principle should apply to the baseline STORM requirements that remain applicable in the GRUZ. Their lesser regulatory burden does not, by itself, establish their necessity. Nor does stating that STORM-O1 is consistent with STORM-P1 and STORM-S3 independently establish why those zones are the appropriate boundary. The

63 At paragraph 98 of the s42A Report: Stormwater.

relevant question remains whether the evidence demonstrates a material problem in the GRUZ that justifies the particular controls proposed.

156. LF–FW–M6 of the Otago RPS requires stormwater effects to be managed in District Plans, but does not prescribe a uniform response to all rural development or remove the need for a proportionate regulatory response.

157. Ms Belgrave's response to STORM-R2[64] reinforces this point:

> *I acknowledge that additional impervious surfaces can alter stormwater runoff in any zone. However, the notified rule is focused on zones where development density, impervious coverage and cumulative demand on stormwater-management systems are generally greater. Extending the rule to all zones would require hydraulic neutrality for increases in impervious surfaces within the General Rural Zone and other zones, irrespective of their scale or effects. In the absence of an appropriate threshold, I consider this would be disproportionate.*

158. I consider the same principle applies to the broader GRUZ provisions: the possibility of an effect does not, without more, justify applying controls irrespective of the scale and nature of development.

159. In my opinion, the issue is not whether rural development can generate stormwater effects. It can. The issue is whether the evidence justifies the breadth of the proposed GRUZ controls. In my view, it does not. The provisions should not be retained simply on the basis that rural development may generate stormwater effects; the evidence must establish the particular problem being addressed and justify the extent of the regulatory response.

Stormwater general matters

160. Ms Belgrave notes that the notified framework recognises differences between zones because hydraulic neutrality under STORM-R1 and STORM-S3 does not generally apply in the GRUZ[65]. I acknowledge that distinction. However, it does not address my concern about the remaining STORM requirements, which continue to apply across all zones. The question remains whether those baseline requirements are necessary and appropriately targeted in the GRUZ.

161. Ms Belgrave also identifies:[66]

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64 At paragraph 177 of the s42A Report: Stormwater

65 Paragraph 83 of the s42A Report: Stormwater.

66 Ibid.

> *The provisions that apply across all zones establish baseline requirements for the appropriate connection, control and disposal of stormwater. These requirements are relevant irrespective of the zone because inappropriate stormwater disposal can contribute to instability, inundation, downstream flooding and adverse effects where stormwater and wastewater disposal areas overlap. Larger lot sizes do not, by themselves, ensure that stormwater can be safely disposed of onsite or that adverse effects will not arise*

162. Instability, inundation, downstream flooding and overlap of stormwater and wastewater disposal areas are stated as potential adverse effects of inappropriate stormwater disposal. The evidence does not establish that these effects are a material or demonstrated problem arising from ordinary GRUZ subdivision, use or development, nor does it explain why the notified STORM requirements are necessary to address them.

163. I agree that larger rural lots do not, by themselves, guarantee that stormwater can be safely managed onsite. That does not, however, establish that all GRUZ development should be subject to the same baseline stormwater controls. An effects-based approach can address circumstances where onsite disposal is unsuitable or where development materially changes existing drainage or creates downstream risk.

164. I remain of the view that the s42A response does not resolve the fundamental evidential issue. It identifies circumstances in which stormwater effects could occur but does not establish the extent to which those effects arise from GRUZ development, or why the proposed provisions are the most appropriate and proportionate response.

165. Ms Belgrave states:[67]

> *The Moeraki Land Instability Overlay being recognised in STORM-S1 is appropriate, as the standard manages the means by which stormwater generated by development is disposed of. This complements the Natural Hazards chapter rather than unnecessarily duplicating it.*

166. Given that policy NH-P8 already provides a specific, risk-based framework for subdivision, use and development in that Overlay, I consider the relationship between the two chapters would benefit from clearer explanation. In particular, the Panel should consider whether the provision is better located in the NH

[67] Paragraph 85 of the s42A Report: Stormwater.

chapter, given STORM is directed to infrastructure matters, or whether a clearer link between the STORM and Natural Hazards chapters is appropriate.

Objective STORM-O2

167. To specifically address its concerns regarding the application of STORM to the GRUZ, the Federated Farmers submission seeks amendment to STORM-O2 to include reference to Urban Zones[68].

168. Ms Belgrave responds:[69]

> *While the regulation of discharges to land and water is primarily a regional council function, stormwater generated by subdivision, use and development can affect receiving environments irrespective of the underlying zone. STORM-O2 appropriately recognises the contribution that land-use and stormwater management under the District Plan can make to waterbody health, without duplicating specific regional discharge controls. Limiting the objective to Urban Zones would also be inconsistent with the application of the baseline stormwater-management requirements in STORM-R1 and STORM-S1 across all zones.*

169. I do not consider this addresses the submission. The fact that stormwater can affect receiving environments in any zone does not establish that the same objective is necessary across all zones, or that the relevant effects are sufficiently significant to warrant a District Plan response.

170. Nor does the application of STORM-R1 and STORM-S1 across all zones determine the appropriate scope of the objective. The objective should identify the resource management outcome the provisions are intended to achieve, and its scope should be supported by evidence of the problem being addressed. The evidence does not establish why STORM-O2 needs to apply to the GRUZ, particularly given the different scale and nature of development and the existing regional council role in regulating discharges.

Policy STORM-P2

171. The Federated Farmers submission seeks exclusion of GRUZ and RLZ land from STORM-P2, and its reasons for relief highlights concerns with the practicality of requiring a stormwater system to be designed and installed at

68 Submission 248.86.

69 Paragraph 106 of the s42A Report: Stormwater.

the time of subdivision or development, and the interface of that requirement with the Building Act.[70]

172. I acknowledge that Ms Belgrave accepts[71] that the submitters[72] raised a valid concern with requiring stormwater systems to be designed and installed at subdivision, where the location and design of future buildings and impervious surfaces may not be known. Technical advice provided to Ms Belgrave noted that the final impervious area of individual lots can be difficult to determine at subdivision and may not be known until building consent stage[73].

173. I support the proposed amendment to STORM-P2 insofar as it removes that requirement at subdivision stage.

174. The proposed amended approach[74] appropriately recognises this by distinguishing between demonstrating that servicing is feasible and completing detailed design and installation. However, the evidence does not explain what level of assessment is intended at subdivision, or why every allotment in the GRUZ and RLZ needs to demonstrate that it can achieve the applicable stormwater outcomes, irrespective of the scale, nature and location of anticipated development.

175. In my opinion, the same concern applies, albeit to a lesser extent, in the RLZ: the evidence has not established that every subdivision requires the proposed assessment at subdivision stage, as opposed to requirements being triggered by the scale, nature and location of the anticipated development.

176. In my opinion, the s42A response does not fully address the relationship with the Building Act 2004 and subsequent building consent process. Where detailed design and construction may appropriately be deferred until the development generating the stormwater effects is known, the Council should explain what additional problem the District Plan assessment at subdivision is intended to address, and why that assessment is necessary in circumstances where the relevant design information may not yet exist.

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70 Submission 246.87.

71 At paragraph 126 of the s42A Report: Stormwater.

72 Noting Ms Belgrave has not identified Federated Farmers as party to this matter, in error.

73 At paragraph 128 of the s42A Report: Stormwater.

74 At paragraph 130 of the s42A Report: Stormwater.

177. I therefore support the clarification to STORM-P2, but remain of the view that its application to the GRUZ and RLZ has not been justified. At minimum, I consider the policy should be targeted to circumstances where subdivision or development creates a demonstrated need for stormwater management, rather than assuming that every allotment requires assessment irrespective of the scale and nature of the anticipated development.

Policy STORM-P3

178. Federated Farmers further submission opposes a submission by Forest & Bird to amend policy STORM—P3 seeking a change from "encouraging" the use of stormwater management areas to "requiring" them. Federated Farmers concern is that the policy should retain flexibility to respond to differing site characteristics, infrastructure capacity and development contexts.

179. Ms Belgrave supports making this requested change to STORM-P3, subject to the addition of "where necessary", and "including where" before the words "infrastructure capacity is not available""[75].

180. In my opinion, those recommended amendments do not provide sufficient certainty. "Stormwater management areas" is not defined, and "where necessary" does not identify the circumstances or criteria for determining necessity. This creates scope for inconsistent interpretation and application of the policy. I therefore consider the amendment should not be accepted without greater clarity as to when a stormwater management area would be required.

Policy STORM-P4

181. Federated Farmers further submission opposes a submission by Forest & Bird to amend policy STORM-P4 seeking a change from "encouraging" the adoption of sustainable stormwater management and water-sensitive design techniques; to "requiring" them. As with STORM-P3, Federated Farmers concern is that the policy should retain flexibility.

182. Ms Belgrave supports making this requested change to STORM-P4[76] because it would better give effect to the Otago RPS.

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75 At paragraphs 139-140 and 142 of the s42A Report: Stormwater.

76 At paragraphs 148-154 of the s42A Report: Stormwater.

183. I note that she shows the words “as appropriate” as existing in the redrafted amendments[77], but in my opinion, this is in error.

184. The Otago RPS direction given in LF–FW–P16 “requires” the use of water sensitive design techniques “wherever practicable”. LF–FW–M6 states District Plans “must” reduce adverse effects of stormwater discharge, including by minimising peak volumes, “encouraging” on-site storage of rainfall and “promoting the use of permeable surfaces.

185. In my opinion, the recommended amendments do not fully reflect the nuances of the Otago RPS. I consider it would be more appropriate to require water sensitive design “where practicable”, with guidance as to the circumstances or criteria for determining practicablity.

186. It is also my opinion that care is needed in making the list of examples of water sensitive design techniques mandatory. For example, requiring on-site rainwater collection for non-potable use where a property is supplied with potable water from a water network operator, may create significant backflow risks requiring careful management[78].

Rule STORM-R1

187. To specifically address its concerns regarding the application of STORM to the GRUZ, the Federated Farmers submission seeks amendment to STORM-R1 to limit its application to Urban Zones and the Settlement Zone[79].

188. Ms Belgrave responds:[80]

> *While rural areas generally have lower development densities and greater opportunities for onsite disposal, buildings and subdivision can still generate stormwater effects, including runoff onto adjoining land and inappropriate disposal in areas subject to instability or inundation. STORM-S1 provides a proportionate baseline applying across all zones by requiring connection where a stormwater-management system is available or safe disposal to ground where it is not.*

189. In my opinion, as set out above, the potential for such effects does not establish that a baseline rule is necessary across the GRUZ. I do not consider the fact that STORM-R1 is less onerous than the hydraulic-neutrality provisions to

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77 At paragraph 154 of the s42A Report: Stormwater.

78 E.g. Water Services Act 2021, section 27, and Building Code G12 clauses G12.3.2-G12.3.4

79 Submission 246.88.

80 At paragraph 165 of the s42A Report: Stormwater.

establish its necessity: the evidence does not demonstrate why all GRUZ development requires connection to a stormwater system where available, or regulated disposal to ground where it is not.

190. I remain of the view that STORM-R1 should be limited to the Urban and Settlement Zones, with any specific rural risks addressed through targeted provisions where those risks are demonstrated.

Standard STORM-S1

191. To specifically address its concerns regarding the application of STORM to the GRUZ, the Federated Farmers submission seeks amendment to STORM-S1 to include limit its application to Urban Zones and the Settlement Zone, and removal of the clause relating to the Moeraki Land Instability Overlay[81].

192. The concerns I have outlined with STORM-R1 above, apply to STORM-S1.

193. Ms Belgrave responds:[82]

> *Although rural areas generally have lower development densities and greater opportunities for onsite disposal, new buildings can still generate stormwater that requires safe management. STORM-S1 provides a proportionate baseline by requiring connection where a system is available or appropriate disposal to ground where it is not. It does not require rural development to connect where no system is available. Table 4 provides design-storm levels of service appropriate to the different receiving environments and development contexts, including a lower requirement for the General Rural Zone than for the Residential, Rural Lifestyle and Settlement Zones. Removing the rural zones from the table would leave no identified design level for stormwater systems serving development in those zones.*

194. In my opinion, the fact that rural development requires safe stormwater management does not establish that every new building in the GRUZ requires the particular controls in STORM-S1 as a "proportionate baseline". As set out above, the evidence has not demonstrated a GRUZ-specific problem warranting these requirements.

195. I do not consider the absence of a Table 4 design level, if the GRUZ were excluded from STORM-S1, to demonstrate that the rule is necessary. That is a consequence of the proposed regulatory framework, rather than evidence of the underlying resource management problem. Nor does the existence of a

81 Submission 246.88.

82 At paragraph 191 of the s42A Report: Stormwater.

lower GRUZ standard in Table 4 establish why a standard is required in the first place.

196. I acknowledge the recommended amendment to STORM-S1(2), which allows onsite disposal in an inundation area where site-specific evidence demonstrates that the ground conditions are suitable. This is a more targeted approach and reinforces the point that the appropriateness of onsite disposal depends on the particular site and hazard.

197. However, I am concerned that the proposed wording provides insufficient direction as to the nature or scope of the "evidence" required to demonstrate that the ground conditions are suitable for the proposed onsite stormwater disposal.

198. Ms Belgrave has identified matters relevant to the suitability of onsite disposal which could usefully be incorporated into the standard:[83]

> *Suitability will depend on site-specific matters including soil permeability, groundwater levels, the proposed disposal method and the potential for disposal to exacerbate flooding. Requiring evidence of suitable soakage conditions provides a more effects-based response while retaining control over inappropriate ground disposal.*

199. Appropriately incorporating these matters into STORM-S1 would provide greater clarity for plan users as to the information required to demonstrate suitability and the matters to be considered in assessing whether the ground conditions are appropriate for onsite disposal.

200. The s42A report does not respond specifically to Federated Farmers submission point on STORM-S1 as it relates to the Moeraki Land Instability Overlay. In my opinion, clarifying the relationship between STORM-S1 and the Natural Hazards provisions would be helpful. As discussed above, if the concern is the interaction between stormwater disposal and land instability or inundation, that relationship should be clearly explained and the respective roles of STORM and the Natural Hazards chapter made clear.

201. I therefore remain of the view that STORM-S1 should not apply generally to the GRUZ. The evidence should demonstrate the particular circumstances in which the requirements are necessary, rather than relying on their description as a "baseline" requirement.

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83 At paragraph 190 of the s42A Report: Stormwater.

Location of the STORM chapter

202. When making decisions on STORM chapter, I note the direction given by the NPS as to where such an additional chapter can be located. The Council has proposed locating it alongside ENG, INF and TRAN. There is no discretion to add any additional chapters to that suite of headings.[84] However, there is discretion to add any additional chapters on a district-wide basis, alphabetically under the General district wide matters heading[85]. I therefore recommend that the Panel locate the STORM chapter under the General district wide matters heading.

84 NPS, section 7, clauses 5-8.

85 NPS, section 7, clause 38.