

## Response to Hearing Panel Questions - Water

Q. No	Issue/ Subject	Question	Comment / Answer
1.	Water Management Sub-zones	Consider putting a separate definition in for Water Management Sub-Zone rather than putting it in the definition for Water Management Zone.	A separate definition for Water Management Sub-Zone has been recommended for inclusion in the Glossary to provide for ease of use in defining the term.
2.	Overall Water Framework	Objective 6-1. Does the terminology referring to "2030" achieve what is being sought ie. is it clear that it is still intended that improvement occurs from now and is worked towards up to 2030.	Comments are included in the End of Hearing Report on this matter.
3.	Overall Water Framework	Objective 6-1. Confused around the focus on the term life supporting capacity. Should the objective refer to the other values within Schedule D?	The focus of the objective is on the Values set out in Schedule Ba. Life Supporting Capacity is critical and then the other values need to be recognised and provided for. No further change is recommended.
4.	Overall Water Framework	<p>Is there a policy gap around some values being aspirational and others being able to be achieved now? What policies deal with non-compliance with the standards in the Schedule ie. it is not clear that these are targets and policy guidelines for consent decision makers. Need to consider a link to the standards. Need a policy framework as to how the standards should be used where they are not met .</p> <p>Refer to the submissions from MRP and Meridian (359/46 and 363/69) to have policy where values cannot be met and wording around avoid, remedy or mitigate effects.</p>	This matter is addressed in the End of Hearing Report.
5.	Overall Water Framework	Under the heading for each Schedule - need to refer to a component of Part I and Part II of the Plan or RPS? Table of schedules and outline whether RPS or Plan. Table 6.2 summary - do we need to include a summary in the RPS and make sure it is not inconsistent with the Plan Schedules.	This matter is addressed in the End of Hearing Report.

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6.	Overall Water Framework	Policy 6-1. Consider the matter of scope for the changes to the policy. Need to have a reference to taking into account the standards in Schedule D. Comment that they may prefer the wording within the original notified policy.	Clause (iii) makes reference to Schedule D and the Values defined for each Water Management Sub-zone. However, there is no link within the clause to Table 6.2 as there was within the original wording in the Policy. It is recommended that an additional sentence be added to the Policy referring to Table 6.2.
7.	Overall Water Framework	Consider whether the changes to the term waterbody are appropriate or whether it should be river or lake in all places it occurs.	It is recommended that the definition for water body be retained and for the term water body to be used. There is no other term in the RMA which provides for all fresh surface water and the bed and margins, and this is clearly what was meant wherever the (undefined) term was used in the proposed plan. However, in relation to Chapter 16 matters, where the term river or lake is more applicable then these terms are used. There has been a legal opinion regarding the inclusion of a more specific definition than the Act.
8.	Overall Water Framework	Consider the submission from Meridian 363/66 regarding deletion of life supporting capacity to then refer to values in its broadest sense.	As outlined in response to the answer to Question 3 above the term Life Supporting Capacity is paramount and inclusion of the term makes it clear that this is the case.
9.	Overall Water Framework	What is the link between Schedules E and Ba? What are the consequences in terms of wetlands and how these are dealt with?	Schedule E identifies the ecological significance of the assemblage of physical and vegetative characteristics of the site. Schedule Ba identifies that there might be more specific water values or other cultural values associated with the site.
10.	Overall Water Framework	The wording in the fold out key is not the same as Table 6.2. WM, Cap, FC/D and inconsistency in text for D/FC, FC and FC and/or drainage.	These have now been changed to make them consistent.
11.		Page 181 – Fonterra submission. Stock drinking water is not in Policy 6-12 – it should be. Use consistent terminology eg. Policy 6-19 refers to an individuals needs for stock drinking water. Consider this wording in terms of section 14(3)(b).	Policy 6-12 is recommended to be broad in its application and refer to reasonable and justifiable need for water in a generic sense, so it does not need to refer to the particular. Policy 15-11 covers permitted water takes, including takes for stock drinking. The issue of s14(3)(b) takes is covered in the End of Hearing Report. The wording in the Policy is considered appropriate given the answers regarding s14(3)(b) takes in the End of Hearing Report.
12.		Should policies 6-12 and 6-19 be different from each other. Domestic water for individuals is not mentioned in Policy 6-12.	Refer to the answer for Question 11.

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13.		Look at submission 460/32 regarding stock drinking water.	This matter has been dealt with in the End of Hearing Report.
14.		Consider all references to minimum flow and whether these should state at or below minimum flow.	Where the policy is specific then the term has been recommended to be changed to refer to at or below minimum flow. Where the reference can be broader, eg. in a heading, then the words minimum flow are used.
15.		Consider whether there needs to be definition for minimum flow.	Policy 6-17 specifically sets out the approach to setting minimum flows (and is supported by Schedule B) and is clear on what is required. No specific definition is considered necessary.
16.		Policy 6-15(d) – consider taking out the changed wording suggested by John M.	The words " <i>being allocations in excess of core allocations</i> " have been recommended to be removed. The clarity around what is a supplementary water allocation is provided in Policy 15-10 and Policy 6-15 refers to this Policy.
17.		Policies 6-16 and 6-17 – should this just relate to rivers? Page B12 deals with lakes – how is there a connection between Schedule B and the policies to cover lakes?	Policy 6-16 covers both core water allocations and minimum flows for surface water in general. In terms of the core water allocations there are lakes identified within Schedule B and therefore the provisions of these policies would be considered in relation to those allocations.
18.		The disturbance of beds of rivers and lakes is dealt with in the policies and rules but what about the other matters in section 13(1) eg. deposition. Compare to the coast rules and identify the gaps in both	All rules have been reviewed and where appropriate other matters in s13(1) have been included. The policies are general enough to cover these matters.

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19.		Consider the consistency of terminology within the objectives with those contained within the provisional determinations for Objectives 12-1 and 17-1. Look in particular at the wording in Objective 17-1 regarding enabling or restricting and values.	The Provisional Determinations for have objectives that are constructed similarly but differently. The general structure appears to be “the regulation (coast 1, biodiversity and land)/management (air) of activities (coast1)/specified activities (land, biodiversity)/ resource (air, coast 1A) in a manner that (all) specific things are achieved (land, biodiversity, air coast 1)/values are recognised and provided for (coast 1A). The objectives proposed for the water chapters seek to control specified activities to recognise and provide for the values and achieve specific things relating back to the RPS policies. The only wording which is inconsistent with any PD's is the use of the word control rather than regulate, and the reference to RPS policies which is not done in any of the PD objectives to date. It is not clear at this stage (without knowing the reasons for the provisional determinations) what the reasoning is for the variations, so its difficult to say which would be most appropriate for the water chapters to be based hekon. However from the planning perspective the objectives recommended are appropriate and do address the issues and activities that they are relevant to.
20.		Check that there is a consistent approach to cross referencing to other chapters.	The general approach that is recommended is that cross referencing occur to other chapters which are relevant. Changes are recommended to achieve a more consistent approach to cross referencing.
21.		Policy 15-4. Consider submissions 179/21, 278/28, 426/22 and 456/7.	The Policy clearly states that water takes shall generally be subject to the specified monitoring requirements. This means consideration can be given to whether the monitoring requirements are necessary, after considering the specifics of the activity through the consent process. No change is recommended.
22.		Policy 15-10 - is it natural flow or observed flow?	It is recommended that the wording now be "naturalised median flow" because this is consistent with the recognition that median flow is an ecologically relevant flow statistic (refer to Dr Hayes evidence). Dr Hayes also states that naturalised flow statistics are the correct version to consider.

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23.		Policy 15-10(b)(i) – refer to median flow. Paragraph 24 of Dr Hays supplementary evidence.	It is recommended that the wording be altered within Policy 15-10 to clarify that the supplementary take is only above median.
24.		Consider submission 359/61 and whether takes and use should be included in Policy 15-10.	The wording of the policy refers to takes not use. It is the act of the take that is at issue within the policy eg. the water taken by way of supplementary allocation. No change is recommended.
25.		Submissions 368/42 and 268/30 – address the fact that minimum flow is set in consent conditions. Outline the changes as a result of working with Genesis.	This matter is addressed in the End of Hearing report.
26.		Policy 15-11 – define reasonable needs – consider section 14(3)(b). Discuss with John M as the comment from Joan was it was not within the law.	This matter is dealt with in the End of Hearing report. It is considered appropriate to define through the Policy or Rule what are reasonable needs.
27.		Stock drinking water – reference to individual in Policy 15-11(b)(i), Rules 15-1 and 15-1 (b)(i) and not referenced in Objective 6-3(a)(ii) and policy 15-5(b)(iv).	The term ‘essential’ used in Objective 6-3(a)(ii) links the provisions to Policy 15-11, which deals with essential takes. In the context of the Objective it is not necessary to specify an individual's reasonable needs for water as this is covered in the Policy. However, it is recommended that for consistency the wording within Policy 15-5(b)(iv) refer to an individual's reasonable needs.
28.		Consider what the term industry covers in terms of takes.	Policy 15-11 refers to the operation of industry but this is qualified by the provisions which follow, which specify that if the take were to cease it would compromise a community's ability to provide for its social, economic or cultural well-being. It is not considered necessary to define the term ‘industry’ in relation to takes as the term is already qualified.
29.		Policy 15-5(b)(iv) – consider the submission from Horizons RC and whether just need to cross reference to Policy 6-19(b).	Policy 15-11(b)(ii) refers to hospitals and a range of other activities. It is considered appropriate to include all of these terms in Policy 15-5(b)(iv) to clearly outline the activities that are covered. Cross referencing to another policy which includes the same terms is not as clear and certain for a Plan user.

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30.		Rule 15-1 and any others where it refers to an individual - do these need to be taken out? Policy 15-7 does this need to cover stock? Policy 15-11 and Rule 15-5 refers to stock drinking water rather than animals.	Policy 15-7 currently covers takes for irrigation, public water supply and industrial use; it does not cover animal drinking water. There is a gap within the policy framework as Policy 15-7, which deals with takes and allocations, should cover reasonable use requirements for animals and wash-down water. Recommended changes are included in the Track Changes document. The reference to stock drinking water in Policy 15-11(b)(i)(b) is prefaced by the previous wording, which clarifies that it is animal stock drinking water. No change is recommended to the Policy. The word 'stock' within Rule 15-5 is recommended to be replaced with the word 'animals', to make it consistent with the policies. The references to an individual animal's requirements in Rule 15-1 etc are covered in the End of Hearing Report.
31.		Rule 15-1 - consider the per hectare threshold and maximums contained in Jon's evidence	This matter is dealt with in the End of Hearing Report.
32.		Page 502 submission 55/12 Livestock Improvement – Rule 15-1 link to Rule 15-5 and the need to cross reference.	A cross reference to Rule 15-1 is recommended to be included in the Activity Column for Rule 15-5.
33.		Rule 15-6 – (ab) refers to a Controlled Activity which may be incorrect. Should the rule cross reference to Rule 15-1.	The reference is correct.
34.		Rule 15-6 – look at the submission on page 509 286/37 – should the rule refer to renewal/expiry of existing for hydro takes.	Rule 15-6 specifically excludes existing hydro takes which are covered under rule 15-8 as a discretionary activity.
35.		Consider all default rules – rule 15-8 in particular. And consider whether need to re-word to make consistent and cover all activities that need to be caught.	The wording within the Rule is recommended to be changed to make it more consistent with the wording used in other catch-all rules, eg. Rule 13-27.
36.		Rule 15-11 (b) – refer to rule 15-10.	A cross reference to Rule 15-10 is recommended for inclusion in Rule 15-11(b).
37.		Consider how the maps for the values and sub-zones are included in POP – John M asked to address and Maree to consider.	An electronic version of the Schedules will be demonstrated to the Panel at the Hearing

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38.		The values are in part aspirational and some are achieved currently eg. Water Supply is not possible currently in all catchments. Does the policy framework need to make a distinction between the two.	This matter is dealt with in the End of Hearing Report.
39.		Policy 6-12 – consider whether the term municipal use (refer to Jon’s evidence) should be included in the policy rather than relying on industrial use. Eg. to cover takes for recreational activities.	At the moment industrial uses in the Policy is being used to cover all large metered users, and as such covers municipal uses such as swimming pools. If the panel does not think this is appropriate they could add in a specific clause to cover municipal component of the public water supply take.
40.		Section 14(3)(b) and the use of the word individual vs person – does it apply to a corporate entity or farming entity.	This matter has been dealt with in the End of Hearing Report.
41.		John M – incorporation of documents by reference. Documents that are final (Schedule 1 – Part III and s 30(2)(b)). Documents that might change and will be incorrect at the time of the decision on POP as references within the document to the Plan will change. If changes are permitted – what legal authority is there for wording changes in the documents? What is the legal basis for incorporating reference to documents where there is no submission eg. reference to the Pattle Delamore document in Policy 15-16(a).	This matter has been dealt with in the End of Hearing Report.
42.		Cross references to rule 15-5 – check where it is referenced in other rules and should only be referring to rivers not rivers and lakes. Why are there references to wetlands when the Schedule does not deal with this. Does Schedule B just apply to rivers?	There is the potential for water within a wetland to be affected and that is why it is included as a condition. Schedule B applies to Water Management Zones. The use of the term ‘river’ is deliberate.
43.		Schedule B – check the rule and policy framework to make sure it refers to both the core allocation limit and the cumulative core allocation limit. The User Guide in Schedule B does not reflect that the allocation limits within each sub-zone are only available having considered the cumulative core allocation limits. Consider whether the terminology needs to refer to consistent terminology.	This has been done in Schedule B.

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44.		Policy 15-10 (a) – change 20% of the natural flow of the river back to 10%. Do we need an upper cap on allocation in clause (b) of the policy? If we did it would need to be expressed as a % of natural flow. What does the term significant mean? Do we need to include reference within clause (b) to median flow and if we do it would need to define how much. Do we need to change natural to naturalized or that which occurs on the day. What ever we select and recommend we need to outline what the different effects could be of the recommended approach.	The reference has been amended back to 10% as the upper cap. The wording within the Policy is recommended to be altered to provide greater certainty for understanding the provisions. Other changes to this provision are dealt with in the End of Hearing Report.
45.		Clarify whether values apply only to rivers and whether the references to values within the Policies needs to be the big Values within the Schedule or the general use of the term value.	The policies within Chapter 15 include reference to Values within Schedule Ba so it is clear they apply to the specific Values in the Schedule. Where the references within Chapter 6 are intended to be to Schedule Ba Values this change has been recommended.
46.	WATER QUALITY	Do we need to include a reference to guidelines for measuring BOD?	This is a standardised analytical test and it is usually specified in resource consents that an accredited laboratory will undertake the analysis. It is not necessary to specify in the Plan.
47.		Add a definition for percentile – flow exceedance percentile.	A definition of flow exceedance percentile has been added to the Glossary. Wherever reference to an exceedance percentile has been used within the Schedules this has been clarified to read flow exceedance percentile.
48.		Note to consider after hearing the evidence: Dr Gibbs mentioned having different standards for shallow and deep lakes. He is not recommending the use of one set of standards which is what is currently included in POP. He said that would not be able to meet the standards and need more monitoring. Take out standards for lakes or base on depth eg. 5 m or base it on stratification? Recommends a sampling protocol/guideline.	Thermal stratification can readily be determined using routine lake monitoring protocols. This type of monitoring is regularly used throughout New Zealand and has been applied recently for the management of Virginia Lake, Whanganui. Collection of temperature/depth profile information (which informs whether a lake thermally stratifies) is an essential aspect of assessing the environmental effect of an existing or proposed activity, as stratification has a profound effect on background lake water quality.
49.		Thermal stratification within Schedule – is this too hard to work in a consent sense? Would an applicant be able to do the monitoring – as best monitoring is over February and then would have to wait and do the monitoring then. Consider whether there is scope for this change.	Refer to the answer for Question 48.



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50.		Dr Gibbs states temperature is not enough of an indicator on its own. Temp cycle goes from 190 to 280 – 240 as a standard refers to the whole water column and at this temp would have fish kills. Need to state that it is an average for the whole water column. Condition could be to not raise the temperature 30 above ambient temp – Dr Gibbs said this was better as a condition on a consent.	Temperature standards for lakes should be removed from Schedule D; inclusion of these standards is an error.
51.		Dr Gibbs para 120 – use a cell based count. Should we have deleted cyano-bacteria from the Schedule? .	The removal of cyanobacterial standards from both lakes and rivers is recommended to be consistent with recommendations of the Interim National Guidelines.
52.		Why do we need reference to HSS in the notations – recognises the differences within WMZ's and the notations recognise this – apply appropriate management techniques. <b>Need explanation as to why they are there within Schedule Ba.</b>	Explanation included as Appendix A
53.		Add in the Latin names of the fish within the key for Schedule Ba.	These have been added into the Track Changes for the Schedule.
54.		Add text as to how specific ANZECC are in relation to 0.444 for SIN in terms of rounding the number.	Explanation included as Appendix A.
55.		Changes to refer to consecutive days within table 16.1 – is this appropriate – is it consistent with the provisional recommendations for Coast. What happens in practice ie. can they do five days then wait the weekend and do another 5 days of work?	The experts from the Department of Conservation, Fish & Game and Horizons caucused on 8 February 2010 and determined that the two conditions – (c) and (d) – work in tandem. Condition (c) sets out the length of time that the activity can be undertaken for (5 consecutive days, once in 12 months), then once completed, condition (d) sets out the clarity standard.
56.		The wording referring to the conditions in tables 16.1 and 16.2 – the condition references remain generic in Chapter 16 – the approach in Chapter 17 is narrower – should it be linked to the value? Rules 16.6(a) and 17.6(b) differ with condition being more general in section 16. Check the wording for consistency between the two sets of rules.	Changes are recommended to Table 16.1 to provide for greater consistency. With regards to the rest of Chapter 16, in large part the rules are appropriate for the activity being undertaken; for example, one of the questions asked related to why the rules in Chapter 16 do not address contaminants but Chapter 17 rules do. In this instance the rules in Chapter 13 (which Chapter 16 links to and Chapter 17 does not) provide for the discharge of contaminants.
57.		Do we need to take maximum temperature out in regard to lakes Page D17?	Yes, this has been done in the Track Changes document.

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58.		Note to consider after hearing the evidence: Do the Permitted Activity rules still link to the lake standards as they may refer to the wrong Schedule?	Yes, Schedule D is the correct schedule.
59.	GROUNDWATER	In terms of on-site wastewater systems and the reference to property – is the use of property being used as it should in terms of the definition. Where a property is bi-sected by a road is this one property? Can water be used on a property where it is on the other side of the road?	In terms of water use and the term ‘property’ within Rules 15-1 and 15-2. it is recommended that the term ‘property’ be qualified by ‘property held in the same ownership’. The reference to ‘property’ within the wastewater rules is correct.
60.		Consider submissions 180, 311, 460 and 406 who sought to have the inclusion of “enhancing” groundwater quality. Consider the evidence of Mr Zarour and Mr Callander who say there can be some enhancement.	Having considered the evidence further, it is recommended that the policy provisions relating to enhancing groundwater quality where it is degraded are appropriate. Appropriate amendments to Section 6.1.1 Scope, Objective 6-2(b) and Policy 6-6 have been recommended in the Track Changes for Chapter 6.
61.		With Objective 6-3 there is uncertainty regarding whether it applies to industry.	Objective 6-3 specifically refers to industry. No change is recommended.
62.		Policy 15-11b) – should it refer to section 14(3)(b).	Policy 15-11(a) deals with permitted takes, which cover permitted s14(3)(b) takes.
63.		Policy 6-25. Consider the content of the memo from Peter Callander regarding the table for the Classification of Surface Water Depletion Effects and having the riparian category re-defined.	Mr Callander had the last row in Table 6.2a split in two, with Low forming one row and Negligible forming the last row. Essentially, both of these rows reach the same point in terms of management approach, ie. that there be no surface water management rules for these categories. It is not considered necessary therefore to split them into two rows.
64.		Consider submission 363/167 from Meridian. Does Policy 15-8 cover the use and recycling of water.	Policy 15-8 clearly covers the use of water. The issue of recycling is more appropriately located within Policy 15-9 which covers alternative water sources. Additional wording has been recommended to be added to Policy 15-9.
65.		Do we need to define groundwater management zone or refer to Schedule C?	A definition has been added.
66.		Reference to the Pattle Delamore Partners Ltd document within the policy needs to refer to Environment Canterbury as the author. Need a copy of the document on the web site. Consider the words giving effect to. Consider the Fonterra submission 398/93. Consider clause 34(5) in Part 3 of Schedule I and whether we can refer to the document.	The matter of referring to an external document has been considered by Mr Maassen in the Memo dated 26 January 2010. The policy reference is now specifically to Environment Canterbury. A copy of the document will be included on the website.

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67.		Policy 15-7 (d) – take out wherever possible as vague.	The words ‘where possible’ are recommended for deletion in Policy 15-7(c(iii)).
68.		Rule 15-2. As there are no springs within the Region do we need to take this term out? Scope for the change?	It is recommended that the reference to ‘spring’ be deleted as ‘river’ would cover the matters of concern.
69.		The use of and in Chapter 15 in relation to the taking and use of water. Should it be or? Consider the flow through of these terms into the default rule.	Changes have been recommended to refer to take or use in some places and in others the words take and use are used, as this is what is meant..
70.		Rule 15-4. Consider changing wording to consequential discharge of contaminants.	The wording has been recommended to be changed in a number of places to ‘consequential discharge of sediment or other contaminants’ to provide consistency in the Chapter.
71.		Search the term discharges and reference to contaminants. There are rules without the reference to contaminants. If there is a problem in terms of a lack of consistency then this needs to be noted even if there is no scope.	A check has been made of the use of the word ‘discharge’ and where it is associated with contaminants it is recommended that the term be ‘discharge of contaminants’.
72.		Provide an assessment of other Regional Councils and what they require in terms of bore drilling eg. are consents required for this and if so what consent category.	Hawkes Bay Regional Council has provided for bore drilling as a Controlled Activity with matters of control covering the similar matters that were included in Rule 15-13 as notified. Taranaki Regional Council made drilling a Permitted Activity subject to a number of standards, including providing a bore completion log. Environment Canterbury provides for the construction of a bore as a Restricted Discretionary Activity. The Waikato Regional Plan provides for bore drilling as a Controlled Activity. There are therefore a range of approaches.
73.		Rule 15-13 doesn’t say whether the discharge is to land or water. Mr Maassen needs to check the consistency of wording re discharges. Look at the Coast section for consistency.	It is recommended that the Rule be amended to refer to discharges to land or water.
74.		Rule 15-13 – Consider the memo from Peter Callander dated 8 December and the need to insert an additional Permitted Activity standard regarding records of the borehole. This query relates to the issues asked of Hisham and Peter as to whether bore drilling should be a Permitted Activity.	It is recommended that the bore drilling Rule be made a permitted activity with additional information requirements.
75.		Rule 15-4 – do we need to add a reference to section 9 as a land use matter?	Reference to section 9 has been included.

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76.		Definition of reasonable mixing? PA condition and how it works with the definition of reasonable mixing – it does not work as recommended. Scope for making changes in relation to the submissions on the Coast. Discuss with Dr Zeldis.	The definition of reasonable mixing does not work in relation to the coast because the first part refers specifically to rivers and the addition referring to the coast refers to a zone specifically identified as part of a resource consent process. However the term 'reasonable mixing' is used as part of conditions for a permitted activity (17-30) and a controlled activity (17-31) and this would not provide for a case by case assessment. Technical advice is that it is not appropriate to apply a reasonable mixing zone for the CMA in the same way as has been applied for rivers as it is most appropriate to consider the effects and contaminant on a case by case basis. Applying the 200m criteria from the rivers part of the definition also may have significant implications as coastal discharges do not have a 'downstream' point and the effects generally radiate in all directions from the point of discharge. A 200m diameter from the point of discharge will cover 12.5hectares – effects over this area would not be considered 'reasonable'. Options are to a) remove the reference to reasonable mixing in the two CMA rules and rely on the other conditions to control effects, or b) describe a reasonably precautionous distance for reasonable mixing, say 25m from the point of discharge. This would allow an area of up to 2000m2 to be affected. Option a) is the most technically defensible.
77.		Inanga are a sub-set of whitebait – include a definition in the Plan.	A definition for whitebait has been recommended to be added to the Glossary. Inanga are the only species which spawn in estuaries (which is why the Value is now called Whitebait Spawning).

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78.		Location of CAP and NS value – CAP is sometimes a zone wide value and sometimes reach value. Water supply, industrial abstraction and irrigation have the same issues about being sometimes zone wide and sometimes reach specific. How do we note this – a footnote next to zone wide to refer to key – need to make a change. How do we know where in the reach NS applies eg. Mana 1c? Department of Conservation land – not defined. Does it need to be? In areas of NS there are some existing takes for Water Supply – policy wording allows for this to continue – check it does.	Footnotes have been added to Table Ba.10 to clarify this. Department of Conservation land is defined by statute. The areas upstream of water supply takes are identified by the WS Value to give effect to the NES for supplies of human drinking water.
79.		Definition of WS in the column where it applies – <b>there is an error that needs to be deleted and need the same definition as industrial abstraction.</b>	This has been changed back to site specific to align with the NES for human drinking water sources. Refer to the Track Changes version of the Schedule
80.		Check that the references in the table on page D-10 have changed from sea to marine. Schedule H – cut off rivers at CMA boundary and changes in terms of additions – is there scope?	The Schedule Ba Values have been checked. Scope for Schedule H changes is discussed in the End of Hearing Report.
81.		Table 16.1 – link the social and economic to values. Do we need to consider historic heritage which has been added through the provisional determinations and the changes they propose to table 17.1 and whether the two tables need to be the same. All permitted activity rules need to be consistent with the approach taken within Table 17.1. Analysis as to which rules they need to apply to. Chapters 16 and 17 are now different in approach.	Table 16.1 and 17.1 have been reviewed and recommendations made to help improve consistency.
82.		The wording for EI is different between Schedules H and D. Do they need to be consistent? Chapter 16 wording may be too vague.	This has been corrected in Track Changes versions of Schedules.

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83.		Do we need to add CAP back in for estuaries – in Schedule D they have been taken out and there is no scope for this. The re-wording within Schedule D and deleting ticks is not potentially within the scope of submissions.	CAP was removed as a Value from estuaries due to the narrowing of the focus of these environments to the CMA only (which is true estuarine habitat rather than part of whole lower river systems, as they were in Schedule D). Estuaries fall within the definition of threatened habitats in Table E.1 under the label 'Saltmarsh wetland'; fit criteria (viii) of Table E.2(a) because all of the estuary sub-zones are greater than 0.1ha; and are not excluded by the criteria in Table E.2(b). The capacity of these threatened habitats to assimilate pollution is already compromised by inflowing rivers.
84.		Algal mat – take out reference to river estuaries?	Yes - it has been removed
85.		Is there a term eg. foreshore or inter tidal area that fits better.	John Zeldis considers the definition in the table is adequate
86.		Clarity descriptor needs to be made consistent.	This has been removed in the Track Changes version.
87.		Faecal coliforms - 90 <sup>th</sup> percentile – do we need to define? Should this be to flow exceedance percentiles. Need consistent wording.	Using the term 90 <sup>th</sup> percentile is appropriate as the term comes directly from the National Guidelines and is routinely used for water quality assessment. The 90 <sup>th</sup> percentile is the value which 90% of the data is lower than. Flow exceedance percentile has been clarified separately.
88.		Coastal indicator – should it be enterococci or ecoli or both within Schedule H – Mr McBride says do both? Consistency with Guidelines for Recreational Water Quality. Mr McBride says use both for a limited period and then make a decision as to which is the better indicator. Does not prefer the sampler deciding which one on the spot.	The estuary faecal indicator should be <i>E. Coli</i> ; a memo outlining the agreement between the experts is appended to the End of Hearing Report.
89.		Should the reference to standards be altered to guidelines or targets?	This matter has been dealt with in the End of Hearing Report.
90.		The coast provisions in Schedule H – are there two different sets of values.	Has been changed in Table H1 to the term 'characteristics'.
91.	Documents to be incorporated by reference	1. Submitters sought the amendment of some documents to be incorporated into the Plan by reference and the officers have recommended changes, but in light of Part 3 of Schedule 1 to the RMA, is it not legally flawed to combine into one document to be incorporated by reference the two different concepts of:	Answers to questions 1-6 (of the document named 'Questions – 12 January 2010) have been provided in writing to the Hearing Panel by John Maassen (Dated 26 January 2010).

Q. No	Issue/ Subject	Question	Comment / Answer
92.		a. an external document that is final, which the Panel and the Environment Court could decide – yes this can be incorporated into the Plan or yes this can be incorporated into the Plan with the modifications that we specify in the Plan (cl 30(2)(b)); and	Answers to questions 1-6 (of the document named 'Questions – 12 January 2010) have been provided in writing to the Hearing Panel by John Maassen (Dated 26 January 2010).
93.		a. a guide to the provisions of the One Plan which is not legally binding but explains, after the Plan has become operative, the effect of the provisions and how one might comply with them?	Answers to questions 1-6 (of the document named 'Questions – 12 January 2010) have been provided in writing to the Hearing Panel by John Maassen (Dated 26 January 2010).
94.		What has been provided in the documents (especially FARM Strategy and Part Three of the Environmental Code of Practice for River Works) is at least in part a purported guide to the POP, based on recommendations from the officers before the hearing, which:	Answers to questions 1-6 (of the document named 'Questions – 12 January 2010) have been provided in writing to the Hearing Panel by John Maassen (Dated 26 January 2010).
95.		a. is already wrong now (in the case of the FARM Strategy document at least – see questions regarding Rule 13-1);	Answers to questions 1-6 (of the document named 'Questions – 12 January 2010) have been provided in writing to the Hearing Panel by John Maassen (Dated 26 January 2010).
96.		b. will probably be wrong as soon as the Panel or the Environment Court makes its decision; and	Answers to questions 1-6 (of the document named 'Questions – 12 January 2010) have been provided in writing to the Hearing Panel by John Maassen (Dated 26 January 2010).
97.		c. will be wrong when the Plan becomes operative as the references to provisions will change when they are made chronological.	Answers to questions 1-6 (of the document named 'Questions – 12 January 2010) have been provided in writing to the Hearing Panel by John Maassen (Dated 26 January 2010).
98.		2. If changes to the document are permitted, but the revised version (or the original wording) is not acceptable to the Panel, what (if any) legal authority does the Panel or the Environment Court have to make decisions about wording of the actual documents (as opposed to modifications specified in the POP)?	Answers to questions 1-6 (of the document named 'Questions – 12 January 2010) have been provided in writing to the Hearing Panel by John Maassen (Dated 26 January 2010).
99.		3. Are there two potential solutions:	Answers to questions 1-6 (of the document named 'Questions – 12 January 2010) have been provided in writing to the Hearing Panel by John Maassen (Dated 26 January 2010).
100.		a. Use the document notified in the POP as the base document and provide a schedule of modifications in the POP; or	Answers to questions 1-6 (of the document named 'Questions – 12 January 2010) have been provided in writing to the Hearing Panel by John Maassen (Dated 26 January 2010).

Q. No	Issue/ Subject	Question	Comment / Answer
101.		b. If it were desirable to use a revised base document rather than the one referred to in the POP, would clause 34(5) of Part 3 of Schedule 1 provide any authority to enable use of the revised base document (presumably one that had the general support of the submitters and the Panel) with modifications on issues of dispute specified in the POP? Or would it be more straightforward simply to have a schedule of modifications from the original document?	Answers to questions 1-6 (of the document named 'Questions – 12 January 2010) have been provided in writing to the Hearing Panel by John Maassen (Dated 26 January 2010).
102.		4. As a variance on 3b, is it legally permissible to amend the Plan to have it refer to a later document (eg. as noted in the next question, the POP notified a 2006 Manual for On-site Wastewater systems; the officers have recommended reference to a 2009 version) as a means of implementing clause 30(2)(b) of Part 3 of the First Schedule? Namely, instead of inserting a list of modifications to the earlier version in the POP itself, we simply refer to an updated 2009 version which is essentially the earlier version with highlighted modifications.	Answers to questions 1-6 (of the document named 'Questions – 12 January 2010) have been provided in writing to the Hearing Panel by John Maassen (Dated 26 January 2010).
103.		5. The POP as publicly notified referred to a 2006 "Manual for On-site Wastewater Systems - Design and Management" (eg. Policy 13-3, Rule 13-11).	Answers to questions 1-6 (of the document named 'Questions – 12 January 2010) have been provided in writing to the Hearing Panel by John Maassen (Dated 26 January 2010).
104.		a. Could you please confirm if it was the April 2007 "Manual for On-Site Wastewater Design and Management: Technical Report to Support Policy Development" (different name and date from the 2006 document) that went through the Part 3 of Schedule 1 process.	Answers to questions 1-6 (of the document named 'Questions – 12 January 2010) have been provided in writing to the Hearing Panel by John Maassen (Dated 26 January 2010).
105.		b. If so, could you please advise if the Panel can use clause 34(5) to treat the April 2007 version as the base document (or a later base document, if the procedure in question 3b or 4 has any legal validity or merit).	Answers to questions 1-6 (of the document named 'Questions – 12 January 2010) have been provided in writing to the Hearing Panel by John Maassen (Dated 26 January 2010).



Q. No	Issue/ Subject	Question	Comment / Answer
106.		6. What legal basis is there for incorporating new documents if no submission asked for that specific document be inserted (Policy 15-16 (a))? If the new document is generally in response to submissions, can clause 34(5) of Part 3 of Schedule 1 be used as authority to incorporate a document that was not publicly notified?	Answers to questions 1-6 (of the document named 'Questions – 12 January 2010) have been provided in writing to the Hearing Panel by John Maassen (Dated 26 January 2010).
107.	General Questions – Glossary and provisions using Glossary terms	7. Should the Glossary include any notes about interpretation eg. words in the singular include the plural and vice versa; parts of speech and grammatical forms of a defined word have corresponding meanings?	Answer has been provided in writing to the Hearing Panel by John Maassen named 'Response to Miscellaneous Legal Questions' - dated 27 January 2010.
108.		8. Is the definition of “property”, which is relevant to a number of provisions in the POP, clear? For example, if a road (which is itself a property within the definition) or a river (including a stream) where the bed is in different ownership cuts through allotments that are in the same ownership, are those allotments “adjacent” ie. are they one property or two, for the purposes of rules that restrict activities to x amount per property?	Scope is given in 182/108 (HRC). Amend the Glossary term for 'property' to read: 'refers to one or more allotments as contained in a single certificate of title and includes all adjacent land in the same ownership. Land is considered to be adjacent if it is only separated by a legal road. A legal road is considered to be a property for the purposes of this Plan'. The definition could be amended to include road but this could bring in a number of complications as outlined in 9 (a – f), eg. If odour travels across the road is the road considered to be a separate property? It is recommended that the definition is altered slightly to fix minor mistakes (spelling) (see yellow version of Track Changes for Water) but the intent of the definition remains as recommended in the Provisional Determination for the General Hearing.
109.		9. When the term “property” is used in the Plan, it is not yet clear to me if the term is being used consistently and any assistance in that respect would be appreciated. Some of the issues relate to the following:	
110.		a. When there is a condition about, say, odour not being beyond the boundary (eg. Rule 13-2) presumably it is intended that a property on either side of a road will be treated as a separate property?	Yes, and the road is a separate property.
111.		b. What about for Rule 15-1 condition (e), which requires the water to be used on the subject property – is it intended that it could be used on land across the road or stream?	It is intended that people can pump water across a road in order to use the water taken from one allotment to another. Recommended to change Rules 15-1(e) and 15-2(f) to properties in the same ownership

Q. No	Issue/ Subject	Question	Comment / Answer
112.		c. In terms of FARM Strategy and Rule 13-1, is the wording of the POP and use of the term “property” consistent with allowing blocks remote from a property to be included in the calculation of nutrients for one FARM Strategy eg. the second Policies 13-8 and 13-9 (note there are two policies numbered 13-8 and 13-9, which we suggest we call Policies 13-10 and 13-11)?	Wording has been changed in the recommended track changes to remove this potential problem.
113.		d. Is “property” in Rule 13-3 conditions (a) and (e) used in the same way?	Yes – need to add * within clause (a)
114.		e. What about “neighbouring property” in Policies 13-3(b) and 15-15(d) and Rule 13-9 and also on-site wastewater systems – and how does “on-site” relate to “property”?	The term ‘on-site’ refers to the type of disposal ie. it occurs on-site. The term ‘property’ is defined and is the land area on which the on-site discharge may occur. The two terms are not related.
115.		f. Use of the term “property” in the definitions of cropping, domestic wastewater, reasonable mixing.	Refer to the answer to question 8 above.
116.		10. The definition of animal effluent refers to “faeces” from animals and the definition of biofuels refers to “animal manure”. Are they the same thing and, if so, is one term appropriate?	Take ‘animal effluent’ out of 13-3(a) and change to ‘contaminants’. The reference within the definition of biofuels is to animal effluent. Add to end of existing definition of animal effluent: ‘and includes effluent that is collected and managed by people, including associated process water, contaminants, and sludges’ - to cover wider discharges of effluent that those directly from an animal. The matter is dealt with further in the End of Hearing Report.
117.		11. Ms Maseyk (paragraph 28) recommends that “town water supply” be added to Table E.2(b)vi. Is that the same as “public water supply” or is something different contemplated? In the definition of “public water supply”, does insertion of “community” clarify the definition?	Ms Maseyk meant public water supply. The word ‘community’ has been deleted from the definition.
118.	Other General Questions	12. In terms of having hard copy maps which could also be available on the Horizons’ computer system, if Horizons changes from the NZMS to the NZTM system, and the Panel decision has only the NZMS coordinates, does that cause any legal issues, eg.:	No, they are the same point in space – just different projections. Refer to Appendix B for further comment.

Q. No	Issue/ Subject	Question	Comment / Answer
119.		a. Until any formal Plan change process, will the maps on the Horizons system be identical to what was decided by the Panel/Environment Court, recalling that Ms Clark indicated a change from landscape to portrait maps?	These maps are produced 'in house' and are only related in space to the NZTM maps. It does not matter whether the NZTM or NZMG coordinate system is used as the maps will still look the same.
120.		b. Will staff be using the version of the maps decided by the Panel/Court to interpret requirements of the Plan or a version where coordinates have been changed?	The determination will be dependant on the same point in space. just different numbers referring to the same point.
121.		c. If there are any legal issues, does a Panel decision that includes both NZMS and NZTM coordinates assist or would that just mean that two sets of hard copy maps would be needed?	Two hard copies of each map are not necessary as the maps will look the same.
122.		13. The Planning Report (page 205) says that the wording of the various historic heritage conditions recommended in the Water provisions is consistent with wording in the PD for Heritage but that does not seem to be correct. Is it legally valid for the POP to refer to historic heritage (eg. Rule 13-3 condition (c)) as defined in another document that may change over time (cf. Manawatu District Council submission pages 40-41)?	Legal advice was provided on this matter in the Historic Heritage Hearing. The wording is considered legally valid. Refer also to the legal advice provided on behalf of the Territorial Authority Collective.
123.		14. There is new recommended wording "time the Plan was notified" (Policy 6-16(b)), "time of this Plan being notified" (Policy 15-11(b)(iii)), "since notification of this plan" (Rule 13-1). Is that referring to clause 5 or 20 First Schedule notification?	It is meant to be when the plan was notified in accordance with clause 5, schedule 1 RMA – 31 May 2007. Where references are made it has been recommended to be altered to 31 May 2007.
124.		15. The wording, and the approach, of the policies that deal with consent decision-making seem to be inconsistent (in the POP and in PDs) in referring to relevant provisions of the RPS, eg.:	Legal advice on this issue is set out below. Changes have not been made to the track changes at this stage as it is probably not helpful to do so until the panel have made a clear decision on their preference.
125.		"giving effect to" (Policy 12-5) or "give effect to" (Policy 17-2)	
126.		"in addition to considering these objective and policies have particular regard to" (Policy 14-2)	
127.		"have particular regard to" (Policy 13-1)	
128.		"recognise and provide for" and "have regard to" (Policies 15-1 and 15-2, 16-1 and 16-2)	

Q. No	Issue/ Subject	Question	Comment / Answer
129.		From a legal perspective, is there wording and an approach that would be suitable to adopt on a consistent basis?	Section 104(1) sets out what shall be had regard to. As these policies are intended to fit within section 104 and be matters to be considered, I consider that the best introductory words to the list are 'have regard to'. As a composite document, the RPS (Part 1) forms a more important function than might have been the case with conventional uncombined plans. Consequently, it is not unexpected that the policies in Part 2 refer back to Part 1 and will be important for example both in the evaluation and determining whether or not the section 104 D tests are met. In respect of reference to those objectives and policies that are most relevant, I suggest the introductory words 'effectively achieving'.
130.		16. There are variations in references to groundwater or water table levels:	
131.		"highest permanent water table" Rule 13-11 conditions (f) and (g);	Conditions (f) and (g) have been recommended to be deleted.
132.		"highest groundwater level" (Rule 13-26 condition (c))	It is recommended that the words 'seasonally highest water table' be used as this more accurately depicts what is required in terms of separation.
133.		"seasonally low groundwater levels" (Policy 15-13(c)(i))	It is recommended that the words 'the lowest groundwater levels in any year' be added as being more accurate.
134.		"seasonally highest groundwater level" (Rule 15-13).	It is recommended that the words 'seasonally highest water table' be used as being more accurate.
135.		Are there wording changes that should be made and are the meanings clear?	The recommended wording is clearer.
136.		17. There seems to be considerable variation in the references to what can be discharged (some examples below) and lack of reference to discharge of "contaminants" where it might be expected (eg. Rule 16-18). It is not clear if the differences are intentional or not, but in a number of cases it seems doubtful.	Changes are recommended in the Track Changes version to make the wording more consistent.
137.		"surface water" (Rule 15-9), "water" (Rule 15-11), "sediment or other contaminants in the water" (Rule 15-9 and 15-11)	No changes are recommended in this case as it is clear that the activity is in relation to surface water and that the discharge may be in the water and be discharged to water or land.

Q. No	Issue/ Subject	Question	Comment / Answer
138.		“drainage water”, “contaminants in the drainage water” (Rule 15-10)	‘sediment or other contaminants’ is recommended to be added.
139.		“sediment and other contaminants inherent to the water or bed” (Table 16.1(b))	No changes are recommended as this provision excludes sediment or other contaminants inherent to the bed.
140.		“water or sediment” or vice versa (Rules 16-5(b), 16-6(b)(ii), 16-7(c))	These types of discharges are appropriate for the Rule.
141.		“weed or any other material extracted from water bodies, cleanfill, water or sediment” to replace “water or sediment” (Rule 16-13)	These types of discharges are appropriate for the Rule.
142.		“sediment” (Rule 16-16)	This Rule has been reviewed and in our opinion should be 'sediment or water'. Changes have been made as appropriate.
143.		“water or sediment” (Rule 16-17)	These types of discharges are appropriate for the Rule.
144.		“water, sediment, bed material or plants” as well as “removed bed material or plants” (Rule 16-18(b) and (e)).	These types of discharges are appropriate for the Rule.
145.		If the differences are not intentional, is there any jurisdiction to remedy them?	Scope has been considered and referenced in the track changes document.

Q. No	Issue/ Subject	Question	Comment / Answer
146.		18. Is there a reason for the inconsistency in conditions about odour beyond the property boundary (eg. Rule 13-2 condition (e) and Rule 13-3 condition (e))? If not, if there is jurisdiction to make them consistent, can consistent wording be recommended?	The Conditions/Standards/Terms for a number of rules relating to Permitted Activities in Chapter 13 contain a clause to regulate associated or ancillary discharges to air beyond the property boundary. It is highly desirable that these clauses be worded in a consistent manner to improve the overall clarity, certainty and user friendliness of the Plan. These kinds of amendments are given scope by submitters that seek amendments for this purpose, eg., territorial authorities. It is clear from section 14.2 of Chapter 14 that "offensive" and "objectionable" are considered to be similar environmental effects and it is intended that they be dealt with together in rule conditions/standards. The most recent version of this clause is presented in the General Hearing Panel's Provisional Determination for Chapter 12 Discharges to Air. It is appropriate to recommend that the same wording be used in the Track Changes for Chapter 13 with the exception of the qualifying word "subject" in the clause "...beyond the boundary of the subject property*" because it can be argued that the Glossary definition is robust enough on its own and such a qualification may have the unintended consequence of reducing the clarity of the clause. The base clause used for this purpose is Clause 14-4(e).
147.		19. Is reference to financial contributions in the rules consistent and appropriate both in the Water chapters and in PDs that have been issued? Rule 16-15(a) discretion (n) seems to be the only rule in the Water provisions that refers to financial contributions; the PD restricted discretionary rules (Rules 12-4, 17-10, 17-16A) do not refer to financial contributions. Is the approach appropriate?	If the recommendation is accepted, Rule 16-15(a) will make large-scale gravel extraction a Restricted Discretionary activity rather than a Discretionary activity as in the notified POP. It is considered that there may be a few situations where having financial contributions available to provide an offset for effects that cannot otherwise be avoided, remedied or mitigated will be an advantage. This needs to be included in the matters that the Regional Council reserves control/discretion over or it cannot be considered in dealing with an application for the Restricted Discretionary activity. It is considered appropriate for Rule 16-15(a) and may be appropriate for other Restricted Discretionary activities to give the Regional Council similar control/discretion.

Q. No	Issue/ Subject	Question	Comment / Answer
148.		20. There are references to “associated”, “ancillary” and “consequential” (at least). Recommendations have been made to change some “associated” to “ancillary” but not others. Sometimes both terms occur in one rule. To improve consistency, including in PDs, is there a smaller number of terms that could be used consistently and which would be recommended to be used when?	Legal advice confirms that the word ‘associated’ should generally relate to land use and ‘ancillary’ to discharges. Changes are recommended to the achieve greater consistency in how the terms are used.
149.		21. What is the logic behind dealing with some Schedule E habitat water-related activities in Rule 12-6 (discharge of contaminants, diversion of water) but others (take and use water, beds of lakes or rivers, damming) in the water-related provisions?	Its difficult to comment on why the split was made in the proposed plan, but provided there are appropriate cross references between the chapters it is appropriate to deal with them either separately (with appropriate cross references between chapters) or to combine all the biodiversity restrictions into one rule.
150.		22. In relation to discharges into water, why do some rules refer to “direct” discharge as opposed to discharge? If a discharge is not a direct discharge to water, isn’t it a discharge onto land in circumstances where it may enter water? Can there be a direct discharge to groundwater under section 15(1)? Is there jurisdiction to make any changes anyway?	As long as the references to the RMA are correct then the Rule is accurate. There would be jurisdiction to remove the word ‘direct’ if this improved the clarity of the rules or policies. However, as not everyone is familiar with sections of the RMA it is considered that leaving the word ‘direct’ in the policies and rules aids understanding.
151.		23. There is inconsistent wording when discharges to land are referred to:	Changes have been made to refer to ‘onto or into’ land.
152.		“onto” land” (eg. Rule 13-2 to 13-4, 13-7, 15-4)	As above.
153.		“onto or into” or “into or onto” land (eg. Rule 13-5, 13-10, 15-9, 15-10, some Chapter 16 rules)	Changes recommended to refer to ‘onto or into’ land to be consistent with Section 15(1)(b).
154.		“to” land” (eg. Rule 13-8).	Changes recommended to refer to ‘onto or into’ land to be consistent with Section 15(1)(b).
155.		Should the Panel change them all to discharges “onto or into land”? If not, which should differ?	As above.
156.		24. In a number of rules, it is not clear whether the discharge being referred to is into water or onto or into land (eg. Rule 15-13, Chapter 12 rules other than Rule 12-6, many Chapter 16 rules). Where it is not specified whether the discharge is to land or water, is there jurisdiction to identify which it should be and, if so, could you please identify which it should be.	The references should sometimes only be to one and sometimes to both, and this will depend on the situation and where the discharge goes to. In the case of Rule 15-13 it is recommended to include reference to discharges to water or land. In the case of Chapter 16 all of the rule have been reviewed and changes have been made as appropriate.

Q. No	Issue/ Subject	Question	Comment / Answer
157.	Chapter 6	25. Policy 6-8 – Why has “land and” been added?	‘Land and’ has been deleted.
158.	Water Quality	26. Objective 13-1A:	
159.	Water Quality	a. In light of the wording of the chapter, should the word “affecting” be “to”?	Yes, the change has been made.
160.	Water Quality	b. Why is the language of section 6, recognises and provides for, used?	This is the language that is used in s6 RMA. The same wording can be used in the Plan without it meaning the same as the RMA.
161.	Water Quality	27. Policy 13-1(b):	
162.	Water Quality	a. Is persistent defined in the RMA?	No, so the reference to the definition in the RMA has been removed.
163.	Water Quality	b. Is this Policy intended to refer to accumulation in the water and the bed? To avoid the wording issue, could the policy omit “in a water body”?	Accumulation could occur in the water, on the bed or in biological organisms. The definition of accumulation within the environment allows for all matters to be considered.
164.	Water Quality	28. Policy 13-1(d) and Policy 13-2(f) – Why are there different approaches to Chapter 11 and why is there no reference to Chapter 11A?	It is not obvious why Chapter 11 was cross referenced in one policy and not the other except it may have been missed in the recommended split of the policies between Part I and Part II of the Plan. Chapter 11 deals with the introduction to the Plan and therefore it is not necessary to cross reference this chapter. Chapter 11A does, however, contain general policies which it would be useful to consider ,so it is recommended that both policies cross reference to Chapter 11A.
165.	Water Quality	29. Policy 13-3 (and related rules):	
166.	Water Quality	a. How does “on-site” relate to “property” as defined in the POP, as some of the rules refer both to “on-site” and “property” eg. Rule 13-11 Activity and conditions (c) to (db))?	The term ‘on-site’ refers to the type of disposal ie. it occurs on-site. The term ‘property’ is defined and is the land area on which the on-site discharge may occur. The two terms are not related.
167.	Water Quality	b. How does “on-site” relate to the wording about a single dwelling in the 2009 Manual for On-Site Wastewater Design and Management (section 1.5.2 on page 5; page 7 in the 2007 version) or is an “individual on-site system” different from an “on-site” system?	The references to ‘individual’ have been deleted.
168.	Water Quality	30. Policy 13-4 – which should 100m <sup>3</sup> /day be in - (a) or (b)? Currently it is in neither.	The wording has been changed to clarify that clause (b) applies where it is 100 m <sup>3</sup> per day or greater.
169.	Water Quality	31. Policy 13-5:	



Q. No	Issue/ Subject	Question	Comment / Answer
170.	Water Quality	a. Is this whole policy totally new as opposed to having its source in Chapter 6? (it is not underlined)	It is a new policy and has been underlined in the Track Changes End of Hearing version.
171.	Water Quality	b. Does the wording make sense?	The wording has been altered to provide clarity.
172.	Water Quality	32. Policy 13-6 and first Policy 13-8:	
173.	Water Quality	a. Does the wording make sense?	Policy 13-6 has been recommended to be retained in Chapter 6 (Policy 6-8). It is recommended that the introductory wording from Policy 6-10 be brought into Policy 13-8.
174.	Water Quality	b. What is the logic of changing these from what was in Policies 6-8, 6-9, 6-10 – Policy 13-6 now deals with point source discharges to land and water, Policy 13-7 deals again with point source discharges to land, there is no separate policy dealing with point source discharges to water (cf. original Policy 6-8)?	The reference within Policy 13-6 has been deleted to make it clear that it applies to water. The order of the policies has been re-worked to provide a more logical connection.
175.	Water Quality	33. First Policy 13-9 (6-11) – Should (a), after “onto” refer to “or into” land?	Yes, and the change has been made.
176.	Water Quality	What is the definition of best management practice in Policy 13-10? Do we need to define this better?	It is not possible to define what is best management practice in the context of this policy as it will vary depending on the circumstances of the farm. The rest of the policy does define it to the extent possible by stating that they must be ‘reasonably practicable’ and they are for the purpose of minimising the loss of contaminants.
177.	Water Quality	34. Second Policy 13-8/Policy 13-10:	
178.	Water Quality	a. Is use of the term property as defined in the POP problematic for incorporating into one Farm Strategy blocks that are separated?	Wording has been changed to avoid this problem.
179.	Water Quality	b. Is the meaning of the land use “existing at the time the rule becomes operative” sufficiently clear, especially where there may be rotational or seasonal planting, eg. in relation to cropping or commercial vegetable growing?	The wording has been changed to avoid this problem and a definition of ‘new use of land’ has been added to clarify.
180.	Water Quality	c. Why is “operative” the time referred to in (a)(ii) and how does that relate to “since notification of this plan” in Rule 13-1?	The answers to these questions has been provided in the report presented at the hearing.
181.	Water Quality	d. Is determining the average loss of N/ha/year over the period 1 Jan 2006 to 31 December 2009 straightforward and beyond dispute?	The answers to these questions has been provided in the report presented at the hearing.

Q. No	Issue/ Subject	Question	Comment / Answer
182.	Water Quality	e. Why are annum and year used? Should the POP generally use year, rather than annum?	The answers to these questions has been provided in the report presented at the hearing. The word 'year' has been used rather than 'per annum'.
183.	Water Quality	f. Should Roman or Arabic numerals be used for the LUC classes?	The answers to these questions has been provided in the report presented at the hearing.
184.	Water Quality	35. Second Policy 13-9/Policy 13-11:	
185.	Water Quality	a. Is this intending to deal with blocks that are separated if they are wanted to be incorporated into one farm or is it intending to deal with blocks that are not part of the farm?	The wording has been changed to deal with this issue.
186.	Water Quality	b. Should "avoided" be "the extent to which Nitrogen leaching avoided or reduced" or something similar to convey that N leaching does not need to be completely avoided?	The answers to these questions has been provided in the report presented at the hearing.
187.	Water Quality	c. Should (a) and (b) be run together?	Yes. The answers to these questions has been provided in the report presented at the hearing.
188.	Water Quality	d. Should volume/rate be "volume or rate"?	Yes. The answers to these questions has been provided in the report presented at the hearing.
189.	Water Quality	e. Do FARM Strategy and FARM strategy workbook need to be more clearly defined, if their use is to have such effect?	It is no longer recommended to refer to FARM Strategy.
190.	Water Quality	36. 13.2 Rules and Table 13.1	
191.	Water Quality	Table 13.1 - consider changing to say months after the rule becomes operative s20A.	The answers to these questions has been provided in the report presented at the hearing.
192.	Water Quality	Rule 13-1 - how do existing discharge permits relate to the rule? What about if they have an existing FDE consent that is not due to expire. How does all contaminant loss get dealt with?	The answers to these questions has been provided in the report presented at the hearing.
193.	Water Quality	a. Why is it recommended to change "target" to "specified" when Policy 13-10(a) refers to "targeted" WMSZs?	The answers to these questions has been provided in the report presented at the hearing.
194.	Water Quality	b. The wording "intensive farming land use activities" in the first sentence does not seem very precise. Should it refer to the activities actually being regulated or perhaps cross-reference Rule 13-1?	The answers to these questions has been provided in the report presented at the hearing.

Q. No	Issue/ Subject	Question	Comment / Answer
195.	Water Quality	c. Why is it recommended to change “land use activities” to “land uses”? Given that a number of associated activities are regulated in Rule 13-1, is reference to either sufficiently wide?	The answers to these questions has been provided in the report presented at the hearing.
196.	Water Quality	d. Should “after which” in the second sentence of 13.2 be “on which” to be consistent with Table 13.1?	The answers to these questions has been provided in the report presented at the hearing.
197.	Water Quality	e. Isn’t the wording of the second sentence in 13.2 and the third column of Table 13.1 inaccurate? Don’t these relate only to some of the activities in Rule 13-1 as opposed to all the rules in the Plan or even all the activities regulated by Rule 13-1?	The answers to these questions has been provided in the report presented at the hearing.
198.	Water Quality	f. Why have “All other catchments” been included in Table 13.1? If it is to cover the part of Rule 13-1 that deals with new land uses, might it not be less confusing to omit it from Table 13.1 and split Rule 13-1 into two rules – one that deals with existing activities and another that deals with new activities?	The answers to these questions has been provided in the report presented at the hearing.
199.	Water Quality	Should year zero be used rather than year 5?	The answers to these questions has been provided in the report presented at the hearing.
200.	Water Quality	Look at the term “ <i>wholly new use</i> ” - what about intensification? Define conversions?	The answers to these questions has been provided in the report presented at the hearing.
201.	Water Quality	Farm animal effluent - needs to include washwater in the definition	An amended definition of ‘Farm animal effluent’ has been recommended in the End of Hearing Track Changes version of the Glossary
202.	Water Quality	37. Table 13.2: a. Heading - would “Rate” be a better term than “Values” in light of “rate” being used in the preceding paragraph and Values (or values) being used in a different way in the POP?	The answers to these questions has been provided in the report presented at the hearing.
203.	Water Quality	37. Table 13.2: b. Isn’t the addition of the heading “Year rule comes into force” misleading, as isn’t it only Year 1 when the rule comes into force and isn’t that only in relation to existing activities?	The answers to these questions has been provided in the report presented at the hearing.
204.	Water Quality	37. Table 13.2:c. In the text preceding the table and in Rule 13-1, should run-off be referred to each time leaching is referred to?	The answers to these questions has been provided in the report presented at the hearing.

Q. No	Issue/ Subject	Question	Comment / Answer
205.	Water Quality	38. Rule 13-1:	The answers to these questions has been provided in the report presented at the hearing.
206.	Water Quality	38. Rule 13-1: a. Why are there so many dates – the date the rules come into force (Table 13.1), the “notification of this plan” and the “date the rule becomes operative”?	The answers to these questions has been provided in the report presented at the hearing.
207.	Water Quality	38. Rule 13-1: b. The distinction between existing and new land uses does not yet seem to be clear enough. In terms of existing, is it to have occurred on the land at any time since notification or continuously since notification? What if the area of the use is expanded – is that new or existing? What if the area of use has stayed roughly the same size, but the location has changed? What about intermittent or rotational activities? What if there is a full or partial change of use from one regulated activity to another eg. from intensive sheep and beef to intensive dairy – is that a new use? What if parts of a property are used for different purposes but the areas used for those different purposes change over time? What other potential issues may arise in distinguishing between existing and new uses that the wording of the rule needs to anticipate?	New wording and definition of new use of land is proposed to rectify this.
208.	Water Quality	38. Rule 13-1: c. In the POP as notified, what leaching/run-off rates apply when for a new use? Is Year 1 the date the rule becomes operative and then years 5, 10, etc are after that? Or does Year 20 apply immediately and, if that is what is being suggested, where was that intention conveyed in the POP as notified? Page 77 of the FARM Strategy document attached to Dr Manderson’s report says at 4.2 that first time FARMS consent applicants should use Year 1 values, seemingly whenever they first apply.	The answers to these questions has been provided in the report presented at the hearing.
209.	Water Quality	38. Rule 13-1:d. Should the wording of discharges ie. iii. and iv. “onto” land, v. “onto or into” land, vii. “to” land all become “onto or into”?	Wording is proposed to make the wording consistent with other where appropriate.

Q. No	Issue/ Subject	Question	Comment / Answer
210.	Water Quality	38. Rule 13-1:e. Why does the wording of vii (contaminants from farm animals associated with the land) not line up better with the wording of Rule 13-6 (animal effluent)?	Wording is proposed to make the wording consistent with other where appropriate.
211.	Water Quality	38. Rule 13-1:f. In terms of the definition of “cumulative nitrogen leaching maximum”, how does the “land on which the use occurs” relate to land that is being used as part of the farm (either as part of the property or a remote block) to calculate the nitrogen leaching allowed but which may not actually be used as eg. intensive sheep and beef farming? Same issue applies in relation to information requirement (b) and “all land on which the activity to which this rule relates occurs”, which infers that one only includes the land on which the activity occurs.	Wording has been proposed to deal with this issue.
212.	Water Quality	38. Rule 13-1:g. What happens if a property straddles more than one catchment (cf. page 47 of the FARM Strategy document attached to Dr Manderson’s report)?	Wording has been proposed to deal with this.
213.	Water Quality	39. to 39w are no longer relevant as it is no longer proposed to refer to the FARM Strategy	
214.	Water Quality	Rule 13-2 (a) - consistency of terminology	No change is recommended.
215.	Water Quality	40. Rules 13-3 to 13-6:a. Is a drain included in the definition of water body (compare the wording of Rule 15-11 condition (a)(iii) but query the wording “is considered to fall”)?	The reference to drains is intended to cover artificial watercourses. This has now been clarified and changes have recommended in the track changes.
216.	Water Quality	Rules 13-3 and 13-4 (d) - change to discharge rather than applied and..	The word discharge is used.
217.	Water Quality	40. Rules 13-3 to 13-6:b. If a drain is a water body, what is the purpose of adding “including drains” to some conditions that refer to water bodies but not to others (eg. Rule 13-4 condition (d)(iv) as compared with (a) and (b))?	The reference to drains is intended to cover artificial watercourses. This has now been clarified and changes have recommended in the track changes.
218.	Water Quality	41. Rule 13-4:a. Presumably the Activity description should be biosolids “or” (rather than “and”) soil conditioners?	Yes.
219.	Water Quality	41. Rule 13-4: b. Are the definitions of “soil conditioner” and “fertiliser” clear and mutually exclusive, given that different rules apply to each?	This matter has been addressed in the End of Hearing Report.

Q. No	Issue/ Subject	Question	Comment / Answer
220.	Water Quality	Rule 13-5 - includes 10 metre setbacks from property boundaries and bores and why is this different to Rule 13-4 setbacks?	The usual setback eg. Rule 13-3, is 20 metres from bores. It is recommended that Rule 13-5 also has a 20 metre setback to achieve consistency.
221.	Water Quality	All references to offensive and objectionable odour - look at the Provisional Determinations for Chapter 8 to ensure consistency	Wording has been amended.
222.	Water Quality	42. Rule 13-5 condition (f) – Does the wording make sense?	No, and it is recommended to go back to the original wording subject to the deletion of the words ‘as necessary’ which introduces subjectivity to the Permitted Activity rule.
223.	Water Quality	43. Rule 13-6 - The controlled activity is the discharge of farm “animal effluent”. In light of the definition of that term in the Glossary: a. is there anything other than faeces and urine discharged from dairy sheds or feed pads or from existing piggeries that is intended to be covered by this rule (eg. the water used for washing and whatever might be contained in it)?	The definition of animal effluent is recommended to be altered to cover these matters.
224.	Water Quality	43. Rule 13-6 - The controlled activity is the discharge of farm “animal effluent”. In light of the definition of that term in the Glossary: b. is sludge from farm effluent ponds within the definition?	The definition of animal effluent is recommended to be altered to cover these matters.
225.	Water Quality	43. Rule 13-6 - The controlled activity is the discharge of farm “animal effluent”. In light of the definition of that term in the Glossary: c. is poultry litter within the definition? (paragraph 18 of Mr Bowler’s s42A report described sources i to iv – only i would seem to be clearly included)	The definition of animal effluent is recommended to be altered to cover these matters.
226.	Water Quality	44. Rule 13-6 condition (b): a. If part of something is extended or deepened, does condition (b) intend to capture the part that is extended or deepened or the whole thing?	Intended to cover the part or the whole. No change is recommended.
227.	Water Quality	44. Rule 13-6 condition (b): b. For consistency with other recommended wording (eg. Rule 13-1), should this refer to “from the date the rule becomes operative”?	Yes, and the change has been made.

Q. No	Issue/ Subject	Question	Comment / Answer
228.	Water Quality	45. Rule 13-8 - What is (c) intended to convey and how does it relate to Rule 13-1 activities being regulated either from the dates the rules come into force or from the date the rule is operative (depending on whether the activity is existing or new).	New wording has been proposed to rectify this.
229.	Water Quality	46. Rule 13-9 condition (d): a. Rule 12-8 of the POP does not refer to the discharge of water into water and therefore neither does Rule 12-6 of the PD. If discharges remain in Chapter 12, it seems from this condition that the intention was for Rule 12-6 to include discharge of water into water. Is that correct?	That would appear to have been the intention, and it is an activity that may have an adverse effect on a wetland habitat (altering water levels) so it is justifiable to control it..
230.	Water Quality	46. Rule 13-9 condition (d): b. If so, is there jurisdiction to insert discharge of water into water into Rule 12-6?	In these circumstances the water is acting as a contaminant (it may change the physical, chemical or biological conditions of the land or water into which it is discharged) Rule 12-6 already covers discharge of contaminants and so the issue of scope does not arise. Rule 12-6 may be usefully clarified to make it explicit that water may be a contaminant.
231.	Water Quality	47. 13.4 and the rules in this section:a. The heading in 13.4 refers to “sewage and wastewater” but the rules deal with “domestic wastewater*” and “human effluent”. Why are different terms used?	The rules refer to wastewater and human effluent. It is recommended that the heading use the same terminology.
232.	Water Quality	47. 13.4 and the rules in this section: b. What does “human effluent” mean? i. How does it differ from “domestic wastewater”? ii. How does it differ from “contaminants normally associated with domestic sewage and greywater” (conditions in Rules 13-10 to 13-12)?	‘Human effluent’ is used in Rules 13-13 and 13-14. The activity description within Rule 13-13 outlines that it covers sewage treatment and storage ponds but does not control domestic wastewater ie. it covers municipal and other community sewage schemes.
233.	Water Quality	47. 13.4 and the rules in this section: c. How do “contaminants normally associated with domestic sewage and greywater” relate to domestic wastewater?	Domestic wastewater is the generic term for disposal on a site directly associated with a dwelling. The standards clarify that the discharge shall consist only of contaminants associated with the sewage and greywater which collectively form domestic wastewater. No change is recommended

Q. No	Issue/ Subject	Question	Comment / Answer
234.	Water Quality	48. Rule 13-10: a. How does one determine the number of persons in the per person calculation?	In Horizons' Manual for Onsite Wastewater, Table 3.1 (page 28) determines occupancy numbers based on the number of bedrooms. This occupancy is then used in Table 3.2 (page 29) to calculate typical wastewater flow allowances on a per person basis. Therefore, for the purposes of Rule 13.10b, Table 3.1 in the Manual should be used.
235.	Water Quality	48. Rule 13-10: b. Should the Activity wording be "becomes" operative for consistency with Policy 13-10 and Rule 13-1 wording?	Yes, and the change has been made.
236.	Water Quality	48. Rule 13-10: c. The recommended change to condition (h) has now made the condition inconsistent with the wording of the Activity, which does not seem to be a positive outcome.	Clause h) is recommended to be deleted.
237.	Water Quality	48. Rule 13-10: d. Condition (h) refers to the best management practice as described in the 2009 Manual. Where in the Manual is that term used?	Clause h) is recommended to be deleted.
238.	Water Quality	49. Rule 13-11: a. Activity wording i. If the activity under Rule 13-10 does not comply with the conditions, is it "controlled by Rule 13-11"?	No, it falls to Rule 13-12 as a Restricted Discretionary activity.
239.	Water Quality	49. Rule 13-11: a. Activity wording - ii. Apart from trying to fix the inconsistency between "operative" and "coming into effect" in the POP, why was the wording changed?	It is now recommended to delete the phrase 'that is controlled by Rule 13-10' as this activity is not controlled by Rule 13-10, and Rule 13-10 defines what an existing discharge is.
240.	Water Quality	49. Rule 13-11: b. On-site vs property - there is reference to on-site in the Activity but the conditions refer to different sizes of "property". How does on-site relate to the definition of "property"?	The term 'on-site' refers to the type of disposal ie. it occurs on-site. The term 'property' is defined and is the land area on which the on-site discharge may occur. The two terms are not related.
241.	Water Quality	49. Rule 13-11:c. As with Rule 13-10, recommended references to "land application" systems in the conditions have caused inconsistent wording in the rule.	The use of the term 'land application field' in clause (c)(ii) is to distinguish that this is the area the discharge goes onto. The reference to land application system is to distinguish the actual system used. The two terms correctly target what the issue is although the word 'area' is considered more appropriate than 'field'. Changes are included in the Track Changes version.



Q. No	Issue/ Subject	Question	Comment / Answer
242.	Water Quality	49. Rule 13-11: d. Condition (c)(ii): i. Is page 48 the reference in the 2009 Manual to the loading rates?	Loadings rates are referenced in Section 6 of Horizons' Onsite Wastewater Manual, depending on the type of system used. Table 6.2 (page 58) is for pressure compensating drip line; Table 6.6 (page 66) is for conventional trenches; Table 6.8 (page 68) is for conventional beds; and Table 6.10 (page 71) for ETS beds.
243.	Water Quality	49. Rule 13-11: d. Condition (c)(ii) ii. If so, from a legal perspective are the soil categories adequately described?	I consider having regard to Table 6.14 page 65 and appendix 2 that the soil categories are adequately described.
244.	Water Quality	49. Rule 13-11: d. Condition (c)(ii) iii. Is it a problem that Appendix 2 (page 92) refers to parts of TP58 with the result that this Manual to be incorporated into the Plan purports to incorporate yet another document (parts of TP58) into the Plan?	The document does not incorporate TP58 by reference but rather incorporates in appendix 2 the methodology for ascertaining soil category and this is acceptable.
245.	Water Quality	49. Rule 13-11: d. Condition (c)(ii) iv. Is referring to the "least conservative rate" intended to mean the highest application rate?	References are now recommended to Table 6.2 of the Manual to assist in defining the rates.
246.	Water Quality	49. Rule 13-11: e. Conditions (d)(ii), (da)(i), (db)(ii) – page 25 of the 2009 Manual states effluent treatment levels for the document one of which is 30g/m <sup>3</sup> total Nitrogen, which is different from what is now recommended by the officers in the conditions. Is that a problem in light of condition (b)?	It is now recommended that the wording be 60g/m <sup>3</sup> of total Nitrogen, as a result of the agreed caucusing between the relevant parties.
247.	Water Quality	49. Rule 13-11:f. Condition (db)(i) – for consistency with other recommended wording (eg. Rule 13-1), should this refer to "from the date this rule becomes operative" and "prior to this rule becoming operative"?	This clause has been recommended to be deleted.
248.	Water Quality	50. Rule 13-16 – Is the correct spelling exceedance?	Rule 13-16 is recommended to be deleted.
249.	Water Quality	51. 13.7 and Rule 13-19 (also relevant to Rules 13-24 and 13-25 condition (b)) – The discharge of "cleanfill" is not consistent with the definition of "cleanfill" in the Glossary, is it?	The definition of cleanfill works in relation to Rule 13-19 as cleanfill would be a landfill, albeit limited by the standards within the rule. The term cleanfill also works in relation to Rule 13-25 as the discharge is to land. The term 'cleanfill' in the standards within Rule 13-24 does not work as the discharge is into water and clearly this would not be a landfill
250.	Water Quality	a. Is a solution to define "cleanfill material" as a separate term, remove that text from the definition of "cleanfill" but refer to " <i>cleanfill material</i> " in the definition of "cleanfill"?	It is recommended to use the term 'cleanfill material' in Rules 13-24 and 13-25 and amend the definition of 'cleanfill' and include a separate definition for 'cleanfill material'.

Q. No	Issue/ Subject	Question	Comment / Answer
251.	Water Quality	b. Is there a better solution?	As above.
252.	Water Quality	52. Rule 13-19: a. In contrast to all the preceding rules (and subsequent rules) in this chapter and elsewhere dealing with discharges onto or into land, this rule seems to be the only one that refers to “associated discharge of contaminants into water”. Does that mean that associated discharges into water are not permitted in the other rules?	The rules that intend to capture discharges to water specify this, eg. Rule 13-15. In some other rules, discharges to water are not wanted to be provided for as a Permitted or Controlled Activity, eg. the wastewater rules.
253.	Water Quality	52. Rule 13-19: b. In all the other rules, while it is not made explicit (and perhaps it should be), I had imagined that discharge onto or into land included any discharge to water of contaminants emanating as a result of natural processes (ie. s15(1)(b)) as well as s15(1)(d) if relevant). Is that what is intended?	As above.
254.	Water Quality	53. Rule 13-20: a. Condition (b)(ii) – Isn’t “floodplain” just about anywhere in the lower areas of the Region? What is intended?	It is recommended that the word ‘floodplain’ be deleted because it is too broad. The issue is making sure composting operations do not occur in areas that could flood. The definition of ‘bed’ in the Act covers the annual fullest flow of a river, which is the issue of concern. The retention of the word ‘bed’ in Rule 13-20 will allow for the issues of concern to be dealt with.
255.	Water Quality	53. Rule 13-20: b. Condition (c) – Wouldn’t it be better to keep the original drafting, which seems to be wider than “land”?	It is recommended to use the word ‘area’ as included in the notified POP.
256.	Water Quality	53. Rule 13-20: c. Condition (d) – Why has “of the land” been added and what does the addition mean in relation to the definition of property and in relation to other rules with similar conditions but without “of the land” at the end?	It has been recommended to delete the words ‘of the land’ as it does not assist and would make the wording inconsistent with other similar standards.
257.	Water Quality	54. Rule 13-23: a. Is this rule intending to deal only with discharges of contaminants to water, rather than to land?	Yes.
258.	Water Quality	54. Rule 13-23: b. Why is the wording of (a) and (b) different?	Wording changes are recommended to make the provisions the same.
259.	Water Quality	54. Rule 13-23: c. Is it legally valid for the applicability of a rule to change over time as strategies are prepared under the Biosecurity Act and is this actually regulated under Rule 14-2?	Given the scope of section 68(5) I do not consider that it is problematic that the rule does not apply to a class of activities undertaken pursuant to the Biosecurity Act. Such activities as a class must be in a pest management plan. The fact that those activities may change from time to time does not alter the fact that they are part of a class which the rule excludes.

Q. No	Issue/ Subject	Question	Comment / Answer
260.	Water Quality	55. Rule 13-25 – Does excluding live ammunition in the Activity achieve anything? If it is not covered by this rule, which rule covers it? If not covered by another rule, and if the ammunition is a contaminant, then wouldn't consent be required?	It is recommended that this be deleted but an exclusion is still needed for NZDF in Rule 12-6. This issue is discussed in more detail in the end of hearing report.
261.	Water Quality	Rule 13-27 - do we need new default rule to consider s9 matters as the rule only deals with s15 matters.	The wording of the rule has been clarified.
262.	Water Quality	56. Rules 13-25 to 13-27 are precise about which paragraphs of section 15 are being dealt with and the language in some of those rules is very precise. In contrast, where the other rules refer to discharges onto or into land they do not refer to section 15(1)(b) or (d). Sometimes it seems clear from the context which provisions are relevant (eg. it seems Rules 13-10 to 13-12 include both in light of the definition of "domestic wastewater"). Where it is not clear from the context, presumably the reference to discharge onto or into land includes both s15(1)(b) and (d)?	More precise cross references to s15 RMA could be made for many rules in Chapter 13. However, the references were kept at a general level on purpose to ensure there were no unintended omissions of activities from the rules. It was considered that the context of the rule would define the s15 provisions that were relevant. A more prescriptive approach was required for Rules 13-25 and 13-26 because of the way rules are worded; and for Rule 13-26 because of its relationship with the aforementioned rules.
263.	Beds of Rivers and Lakes	The title to chapter 16 includes a reference to damming but it is not in objective and policy headings and in the body of the objectives and policies.	With regards to damming, an additional clause has been added to Policy 16-1 to ensure that its effects are considered during the decision-making process. Dams are recognised in the objectives and policies so far as they discuss structures. Objective 16-1 and Policy 16-1 have both been altered to include reference to damming.
264.	Beds of Rivers and Lakes	Panel wants a track changes version of the Rivers CoP 2009 - with further changes as a result of caucusing highlighted in a different colour and also areas of disagreement highlighted. Should specific parts of the CoP only be referenced in the POP eg. pages 27 to 32, 35 to 93 and 97 to 108? If so then only need to do track changes for these sections.	A Track Changes version of the March 2010 version of the Code of Practice has been provided to the Hearing Panel, showing Track Changes for those parts of the code that are to be referenced within Rule 16-13.
265.	Beds of Rivers and Lakes	In relation to the rules for culverts why has the recommendation made by James Lambie not been adopted? Eg. diameter condition. Diameter may be a better term than height?	The culvert rules have been reviewed. After careful consideration condition (c)(ii) has been split into two so that there is now one condition for circular culverts and one condition for culverts of other shapes, eg. square.

Q. No	Issue/ Subject	Question	Comment / Answer
266.	Beds of Rivers and Lakes	57. There seem to be two permitted activity default rules that seem rather hidden in the chapter ie. Rules 16-12 and 16-16. What is the logic of the location of these rules?	These Permitted Activity rules are located under the activity heading that is most relevant to the activity. For these sections the Permitted Activity rule is the default rule. This is similar to the structure in other activity sections where the default rule is included after the more specific rules. The difference is in this case is that the default rule is Permitted rather than Discretionary.
267.	Beds of Rivers and Lakes	Policy 16-1 - Refer to other Chapters eg. 10A and 4 and check other policies	This question has been given careful consideration. Policy 16-1 and 16-4 now references Chapter 4, which seems appropriate. Chapter 10A - administration does not seem appropriate to reference as it discusses Plan administration, which does not seem relevant to Chapter 16.
268.	Beds of Rivers and Lakes	58. In contrast to most (but not all) of the rules in Chapters 13, 15 and 17 (but consistent with the revised rules in Chapter 12 other than Rule 12-6), the discharges in Chapter 16 do not say whether they are to land or to water.	See answers below.
269.	Beds of Rivers and Lakes	a. In this chapter, are they intended to include discharges to land and water?	A thorough check of the rules has been undertaken and, where appropriate, the rules have been altered to include references to land and water.
270.	Beds of Rivers and Lakes	b. Is there scope to specify the location of discharges where this is missing?	This would not increase the scope of the rule as it was broadly written as notified. Scope to clarify the rule can be found in submissions from the Territorial Authorities.
271.	Beds of Rivers and Lakes	c. Often the ancillary discharge does not seem to be limited to the location specified in the rule. Is it anticipated that, eg. a discharge to land could be to any land and not necessarily in the area of the activity eg. Rules 16-16, 16-18?	If the discharge is a) ancillary to the activity (and therefore there are some limits as to its nature) and b) discharged in accordance with the standards and terms, then there is not considered to be any need to further restrict the location of the discharge.
272.	Beds of Rivers and Lakes	59. It is sometimes difficult to understand the choices made about the words from section 13(1)(a) that were used or omitted in any particular rule eg.	All of the rules in Chapter 16 have been checked and specific responses are detailed below
273.	Beds of Rivers and Lakes	"erection, placement or extension" (Rule 16-4)	In Rule 16-4 the use of words is appropriate as alteration, removal or demolition is otherwise permitted by Rules 16-6 and 16-7.

Q. No	Issue/ Subject	Question	Comment / Answer
274.	Beds of Rivers and Lakes	“erection or placement” (Rule 16-8)	Reconstruction, alteration of a existing small dam is otherwise covered by Rule 16-5, removal and demolition is covered by Rule 16-6. I also note that extension needs to be added to this rule.
275.	Beds of Rivers and Lakes	“erection, reconstruction, placement, alteration, or extension” (Rules 16-10 to 16-12 and 16-13)	Reconstruction, alteration of existing structures is otherwise covered by Rule 16-6, therefore have been removed from Rules 16-10 to 16-12 and 16-13.
276.	Beds of Rivers and Lakes	“erection, reconstruction, placement, alteration, extension or removal or demolition” (Rule 16-12(a))	Reconstruction, alteration of a existing structures is otherwise covered by Rule 16-6, therefore have been removed from this rule.
277.	Beds of Rivers and Lakes	“erection or placement” and “removal or demolition” (Rule 16-14)	This rule aims to consent activities which may affect the Regional Council’s flood control assets. On review, the words ‘alter, extend and reconstruct’ have been added to Rule 16-14(ga).
278.	Beds of Rivers and Lakes	“alteration, extension, removal or demolition” but in relation to an artificial watercourse (Rule 16-18).	The activities of use, erect and place in relation to a structure are something which the Regional Council has chosen not to control in relation to an artificial watercourse (except for dams - see Rule 16-8) and they are otherwise permitted by s9 of the RMA. We have however chosen to control activities where there is likely to be an effect on water quality, such as demolition of a structure.
279.	Beds of Rivers and Lakes	Where a word is omitted, is the omission intended to be caught by the other words in the provision (or another provision) or is the intention that the omitted activity defaults to PA Rule 16-12 if the conditions are complied with or otherwise Rule 16-20?	If the activity is a Permitted activity the intent is that the s13(1) activities ‘use, alteration, reconstruct, removal or demolishment’ will be caught by the rules in section 16.4. the other s13(1) activities should be adequately capture by the rule intending to control it, eg. Rule 16-11 for culverts. The activity should only default to Rule 16-20 if it does not comply with one or more conditions of the Permitted Activity rule.
280.	Beds of Rivers and Lakes	60. There is variation in the way that section 13(1)(b)-type activities are referred to eg.	All of the rules in Chapter 16 have been checked and specific responses are detailed below.
281.	Beds of Rivers and Lakes	“excavation, drilling, tunnelling or other disturbance” (Rule 16-2(b), Rule 16-4, 16-13(b), 16-16)	The activities outlined here are appropriate and in our opinion cover the intent of the rule.

Q. No	Issue/ Subject	Question	Comment / Answer
282.	Beds of Rivers and Lakes	“disturbance” (Rule 16-6, 16-7 and other references where ancillary activities are referred to)	In our opinion the intent of the use of the term 'disturbance' is to cover all of the s13(1)(b) activities. Therefore, to ensure clarity, the rule has been altered accordingly to explicitly state all s13(1)(b) activities. This would not increase the scope of the rule as it was broadly written as notified. Scope to clarify the rule can be found in submissions from the TAs.
283.	Beds of Rivers and Lakes	“excavation, drilling or tunnelling” (Rule 16-14 (f)) and then in (g) not “disturbance” but “ <i>land disturbance</i> ”	We agree that (f) needs to have other disturbances added to it to be consistent with s13(1)(b). This would not increase the scope of the rule as it was broadly written as notified. With regards to land disturbance, activity description (g) covered a land use activity beyond the bed, therefore the use of the term 'land disturbance' is appropriate
284.	Beds of Rivers and Lakes	and in relation to gravel extraction: “excavation or other disturbance” (Rule 16-2A)	After discussions with Allan Cook - Group Manager Operations, it was confirmed that 'tunnelling' is not an activity associated with gravel extraction. The use of 'excavation and other disturbances' is also consistent with the Operative Beds of Rivers and Lakes Plan. The rules have been altered accordingly.
285.	Beds of Rivers and Lakes	“excavation, tunnelling or other disturbance” (Rule 16-15, 16-15(a))?	See above.
286.	Beds of Rivers and Lakes	a. Where there is a gap in wording, is the activity intended to be caught by “other disturbance” if that wording is present or is the omitted word intended to be excluded and should this be made clear?	No, the rules should be clear and have been altered accordingly.
287.	Beds of Rivers and Lakes	b. If the omitted activity is intended to be excluded, does the activity default to Rule 16-16 permitted activity status?	No, the rules should now be clear.
288.	Beds of Rivers and Lakes	c. Where just “disturbance” is referred to, is that shorthand for referring to all s13(1)(b) activities?	No, the rules should be clear and have been altered accordingly.
289.	Beds of Rivers and Lakes	61. Has “disturbance” ever been used in the rules with the intent that it would capture activities other than section 13(1)(b) activities? For example, Mr Lambie’s s42A report (page 18, para 85) says that “disturbance” of a bed includes a range of activities (references to sections are mine) eg.:	See answers below.

Q. No	Issue/ Subject	Question	Comment / Answer
290.	Beds of Rivers and Lakes	introducing or removing plants (ss13(1)(c), 13(2)), destruction of the habitat of plants or animals (s13(2)), reclamation of the bed (s13(1)(e)), placement of rock protection work (s13(1)(d)), removing logs (ss13(1)(b)?, 13(2)?), other flood protection works (which paragraphs of section 13 could apply here? And could section 9 also apply?), control of weeds (s13(2)?)	See answers below.
291.	Beds of Rivers and Lakes	A number of these are not referred to in Rule 16-13; while Rule 16-17 permits certain activities in relation to plants, there is no requirement to comply with the COP.	See answers below.
292.	Beds of Rivers and Lakes	a. From a legal perspective, while carrying out the activities identified above may involve disturbance of the bed under section 13(1)(b), a rule that simply refers to disturbance (or some variation of section 13(1)(b) wording) isn't dealing with activities other than section 13(1)(b) activities, is it?	The rules in Chapter 16 have been reviewed with the above comments in mind. In our opinion the term 'disturbance' is only intended to cover s13(1)(b) activities. Additions have been recommended for this rule, such as reference to s13(1)(d), to ensure that deposition of substances, eg. soil is allowed for. Reference has also been added to activities which disturb or discharge to land. With regards to activities such as disturbance of plants (which the rule is silent on) it is intended that other rules in this chapter will cover the activity, eg. Rule 16-17 in the case of plants.
293.	Beds of Rivers and Lakes	b. If reference to disturbance has been intended to capture more activities than just section 13(1)(b) activities in this rule and others in the POP (it would not seem satisfactory to remedy any problems just in relation to this rule), is there jurisdiction to remedy the wording issues?	In our opinion the intent of the term 'disturbance' is intended to cover all s13(1)(b) activities and there is jurisdiction to fix it through those submissions asking that the Plan is clear and certain.
294.	Beds of Rivers and Lakes	62. Is there a reason for the variations of "in, on, under, or over" (language used in section 13) eg.	See answers below.
295.	Beds of Rivers and Lakes	"in, on, under or over" (Rule 16-4(a) and other rules)	The use of this s13 language is appropriate as any of these activities will affect the 'natural state' value.
296.	Beds of Rivers and Lakes	in or on" (Rule 16-4(b) and other rules)	The use of this s13 language is appropriate as any of these activities will affect the 'SOS-A or 'SOS-C' values. Structures under or over a bed which are not 'in or on' the bed are unlikely to affect the value in the same way; therefore it is appropriate they are omitted.

Q. No	Issue/ Subject	Question	Comment / Answer
297.	Beds of Rivers and Lakes	“within” (Rule 16-4(c) and other rules)	This activity description has been altered to replace ‘within’ with ‘in, on, over or under’ to it to make it consistent with (b).
298.	Beds of Rivers and Lakes	“involving” (Rule 16-4(d))	This activity description is appropriate as it is written in a very generic sense and is talking broadly about activities within a water body with a value which is regulated by another rule.
299.	Beds of Rivers and Lakes	a. Should all references relevant to section 13 be changed to in, on, under or over, unless in the context that would be clearly inappropriate? If so, could you please advise which should not refer to all four aspects.	Chapter 16 has been reviewed and where appropriate the references have been altered. Rules 16-9 still refers to ‘within’ as it is regulating the activity of damming opposed to a structure, Rule 16-13 still refers to within in the activity description which is appropriate as it is ‘discussing’ an area as opposed to the activity.
300.	Beds of Rivers and Lakes	b. Except in relation to artificial watercourses, shouldn’t they all be worded to relate to the bed of the river or lake, which is the scope of section 13?	Yes, apart from Rule 16-4, which is values driven, therefore it is appropriate to refer to the water body.
301.	Beds of Rivers and Lakes	63. <i>Bed</i> <sup>^</sup> - Does “bed <sup>^</sup> ” have any meaning in relation to an artificial watercourse (eg. Chapter 16 title and the header on each page, though the header does not yet show bed as an RMA-defined term, Objective 16-1, Policy 16-2, Rules 16-18, 16-19)? If not, what terminology would be appropriate?	No, bed does not have any meaning in relation to artificial watercourses. The chapter heading has been altered to read ‘16. Structures <sup>^</sup> and Activities involving the Beds <sup>^</sup> of Rivers <sup>^</sup> , and Lakes <sup>^</sup> , and Artificial Watercourses, and Damming’
302.	Beds of Rivers and Lakes	64. Section 16 heading and Objective 16-1:a. The heading says “Activities involving” the beds and the objective says “regulation of certain uses of” the beds. It seems that some of the rules regulate ancillary activities away from the beds (eg. Rule 16-14). Should that be acknowledged in the heading and objective or should those rules be narrowed?	We believe the heading of the chapter is broad enough to include the ancillary activities. The objective is relevant to the main activity of the chapter; objectives in other chapters give the guidance for the ancillary discharges, etc.
303.	Beds of Rivers and Lakes	64. Section 16 heading and Objective 16-1:b. Should damming be referred to in the objective?	Structures and activities is considered broad enough to cover all the activities regulated in the chapter.
304.	Beds of Rivers and Lakes	65. Policies 16-1: a. Why does the heading exclude artificial lakes, but the text refer to lakes without excluding artificial lakes?	The bracketed text in the heading of the policy has be added to the opening sentence; this should resolve this issue.



Q. No	Issue/ Subject	Question	Comment / Answer
305.	Beds of Rivers and Lakes	65. Policies 16-1: b. Why does (f) refer to the beds of wetlands when section 13 refers to beds of rivers or lakes?	The policy should not refer to rivers as there are no rivers that qualify as being rare habitats or threatened habitats; therefore it is recommended that the term 'river' be deleted. Therefore, it is recommended that the policy now only refer to wetlands classed as rare habitats or threatened habitats, and the beds of lakes.
306.	Beds of Rivers and Lakes	i. Does <i>bed</i> have meaning in relation to wetlands?	Strictly, there is no bed to a wetland (in the RMA sense) except where the wetland is incorporated as part of a bed of a river or lake. Therefore, changes have been recommended to ensure there is no reference to bed in the context of a wetland.
307.	Beds of Rivers and Lakes	ii. What is the legal relationship between rivers, lakes and wetlands – can wetlands be part of rivers or lakes??	Yes, wetlands are often associated with lakes and rivers.
308.	Beds of Rivers and Lakes	66. Policy 16-2: a. Is "recognise and provide for" appropriate terminology in light of its use in section 6 and will that be consistent with terminology in the rest of the Plan?	The only relationship with s6 of the Resource Management Act 1991 matters is that the terminology is the same. The use of the words 'recognise and provide for' in the context of the Plan does not elevate the status of the consideration to that dealt with in s6. No change is recommended.
309.	Beds of Rivers and Lakes	66. Policy 16-2: b. Are any artificial watercourses or artificial lakes identified in Schedule Ba?	Schedule Ba values apply to all natural water bodies. Schedule D standards apply to all water. Hydro lakes are not artificial but are modified. Some drains are artificial but many are modified from natural. The word 'natural' has removed where it prefaces the rivers, streams or lakes.
310.	Beds of Rivers and Lakes	66. Policy 16-2: c. While the definition of river excludes artificial watercourses, the definition of lake does not seem to exclude artificial lakes. Are the rest of the policies in this chapter intended to apply to artificial lakes?	Yes, except for the general 16-3 Policy which explicitly states that it excludes artificial lakes.
311.	Beds of Rivers and Lakes	67. Policy 16-3 (6-27): a. Is the intent that the introductory words in Policy 6-27 be repeated here?	Yes, and the policy has been altered as appropriate.
312.	Beds of Rivers and Lakes	67. Policy 16-3 (6-27): b. Would it not be possible for activities also to "remedy" matters?	No.
313.	Beds of Rivers and Lakes	67. Policy 16-3 (6-27): c. (c) seems part policy and part story:	The provision relating to natural character has been relocated and placed into Policy 6-27.
314.	Beds of Rivers and Lakes	i. How does Policy 7-8 assist in an understanding of natural character?+B319	Policy 7-8 does assist in guiding consent decision-making to the matters that will influence the effects on natural character.

Q. No	Issue/ Subject	Question	Comment / Answer
315.	Beds of Rivers and Lakes	ii. If there is to be a description of natural character of river beds, is this the best place for it? Is there equivalent description somewhere for the other things mentioned in Policy 7-8? If not, is it odd to include such detail about a river?	As above.
316.	Beds of Rivers and Lakes	iii. In the context, what does “characteristics” mean?	The word ‘characteristics’ has been recommended to be deleted.
317.	Beds of Rivers and Lakes	iv. Why is it appropriate to refer to Method 6.9 and why is there no mention in Method 6.9 of Policy 16-3?	This clause (c) has been moved to Policy 6-27; it is appropriate to refer to Method 6.9, and also Method 6.9 refers to Policy 6.27.
318.	Beds of Rivers and Lakes	67. Policy 16-3 (6-27): d. If (f) is to refer to “operation” as well as maintenance and upgrade, is that consistent with equivalent provisions elsewhere in the PDs and the POP? If not, what changes need to be made where?	The inclusion of the word ‘operation’ is consistent with the terminology used in the Provisional Determination for the General Hearing, where there was careful consideration of the terms maintenance, upgrade, operation and establishment. For example, refer to Objective 3-1.
319.	Beds of Rivers and Lakes	68. Policy 16-4 to 16-6 (6-28 to 6-30) - Given the inconsistencies and the increasing complication of the references to the values, the complications of referring to water bodies and the fact that this chapter is focussed on rivers and lakes, would it be appropriate for these policies to be reworded to remove reference to water bodies and Water Management Sub-zones and try to link the values to the river or lake?	The definition of water body as recommended for the Plan includes the bed as well as the water. It is appropriate that the term ‘water body’ be retained to cover both these aspects.
320.	Beds of Rivers and Lakes	69. Policy 16-4(a) (6-28)- Would it not be possible for activities also to “remedy” matters (cf. Policy 16-6(a) which refers to “remedies”)? Consider the submission from MRP and make consistent with the PD for Chapter 12.	Policy 16-4 clearly focuses on seeking to avoid or mitigate adverse effects on values for natural state and Sites of Significance - Cultural or Aquatic. The use of the word ‘remedy’ in Policy 16-6 is a result of that policy focusing on other water bodies with other values, and recognises that financial contributions may be an appropriate way of remedying those effects. There is a hierarchy and avoiding or mitigating effects is appropriate in the context of Policy 16-4.
321.	Beds of Rivers and Lakes	70. Policy 16-5 (6-29): a. (a) – Is “the time of notification of this Plan” notification of the POP or of when the Plan becomes operative”?	It is recommended that the actual date the POP was notified be included in the policy so it is clear what the date actually is.

Q. No	Issue/ Subject	Question	Comment / Answer
322.	Beds of Rivers and Lakes	Policy 16-5. May need to consider artificial watercourses. If want to control outside the bed then may need to change the policy	There are no artificial watercourses within the Region that are controlled as part of the Region's flood control and drainage schemes. With regards to land adjacent to the bed which we also seek to control, a sentence has been added to the policy to clarify this. When required, the rules have also been altered to make it clear that we seek to control the land alongside the bed.
323.	Beds of Rivers and Lakes	70. Policy 16-5 (6-29): b. (b) – Is “other values associated with the ...” intended to refer to Schedule Ba values, values generally, or both? Does this need to be clarified?	The policy is intended to refer to Schedule Ba values. The wording has been amended to refer to Schedule Ba values.
324.	Beds of Rivers and Lakes	71. Policy 16-6 (6-30) – Same as the previous question - what is meant by “other values” in the heading and “these other values” in (a)?	The policy is intended to refer to Schedule Ba values. The wording in the heading has been amended to refer to Schedule Ba values.
325.	Beds of Rivers and Lakes	72. Policy 16-7 (6-31) – Does the change to “existing” (assuming there is scope for the change, as it results in a significant change in meaning) actually flow through to the rules, given the recommended insertion of “lawfully established” in some of the rules? Need to consider in relation to Chapter 12 which has a similar policy.	On review, there does not appear to be scope for the change from ‘essential’ to ‘existing’. However, in our opinion the use of the term ‘existing’ is more appropriate as the term ‘essential’, combined with this policy, signals that the activity would generally be allowed. I have recommended to change the word ‘existing’ in (a) to ‘lawfully established’ which is consistent with the rules.
326.	Beds of Rivers and Lakes	73. Policy 16-8: a. (b)(iii) – Why is “clearly” needed?	The word ‘clearly’ has been deleted as it does not assist in an understanding of the provision.
327.	Beds of Rivers and Lakes	b. (d): i. Reference to “river or reach” and then “river reaches” seems confusing. What is intended?	The use of the phrase ‘river or reach’ within the Policy is deliberate as it relates to Table 16.1a, which in some cases deals with the whole of a river and in other cases just the reach. It is recommended that the reference to ‘river reaches’ within clause (d) be altered to ‘river or reach’.
328.	Beds of Rivers and Lakes	ii. Given that “annual” is defined, should (d) say “extracted on an annual basis” or perhaps “cumulative annual volume” rather than “per annum”?	It is recommended that the words ‘per annum’ be deleted from clause (d) as – as the Panel has correctly noted – the term ‘annual’ is defined in this Policy and therefore for consistency the reference should be to ‘on an annual basis’.

Q. No	Issue/ Subject	Question	Comment / Answer
329.	Beds of Rivers and Lakes	74. Table 16.1 and relevant rules - As noted during the Coast hearing: 16.2 and Table 16.1 and 17.1 and Table 17.1, which were initially similar, seem to be developing in different directions, which does not seem desirable.	The opening paragraph to Table 16-1 has been altered to make it more consistent with Table 17-1. We have, however, decided not to adopt the wording change from 'standard conditions' to 'general conditions', which is what has been recommended through the Provisional Determination for the Coast Hearing. In our opinion the term 'standard conditions' reflects the intent of the conditions – that they are standard throughout the chapter.
330.	Beds of Rivers and Lakes	The wording of the conditions in the rules that refer to Tables 16.1 and 17.1 is also becoming more inconsistent.	See below.
331.	Beds of Rivers and Lakes	Equivalent rules in Chapters 16 and 17 seem to be diverging (eg. Rules 16-6 and 17-6).	In some instances it may be appropriate in the context. For example, it is not appropriate that contaminants (of which the RMA definition is very broad and can include substances such as oil, wood, paint) etc be discharged into a river (which can include an ephemeral stream).
332.	Beds of Rivers and Lakes	Table 16.1a. Manawatu River is a maximum and the others are average - so may need to change the table?	After revising the figures it appears that the amounts suggested for the Manawatu River are amounts that the Operations department holds a consent for, and which they will take over a period of 20 years. The amounts have been revised so that they are now consistent with the rest of the table in that they are an average volume which is taken on an annual basis.
333.	Beds of Rivers and Lakes	Provision (k) - Consider Jim's evidence. Should it be no more than 5 days in any 12 month period? Should it be 5 days any time the river has had a fresh through it? Should be a total of 12 hours and 5 days.	This condition has since been reviewed and further changes recommended (see caucusing reports 8 February and 22 March 2010) along with discussion in the End of Hearing report.
334.	Beds of Rivers and Lakes	75. Table 16.1 and relevant rules - Comparing generally equivalent rules also seems to identify unusual differences or omissions. For example:	See answers below.
335.	Beds of Rivers and Lakes	Rules 17-6(a) and 17-7 deal with deposition of material but Rules 16-6(a) and 16-7 do not (but deposition is restricted by section 13(1)(d)).	This appears to have been an oversight and has been corrected – see Track Changes

Q. No	Issue/ Subject	Question	Comment / Answer
336.	Beds of Rivers and Lakes	Rules 17-6(a)(iii) and 17-7 refer to discharge of water or contaminants but Rules 16-6(a)(iii) and 16-7 refer to water or sediment.	The Coast chapter (Chapter 17) is all-encompassing in that it covers all activities within the CMA. For other activities that are not in the CMA, rules may be relied upon across a number of chapters. In this instance, the discharge of contaminants into surface water, as a result of an activity in Chapter 16, is controlled by the rules in Chapter 13. A clause has been added to each of the rule guides to clarify this.
337.	Beds of Rivers and Lakes	Are there reasons for these differences or are these a result of lack of attention to detail? If the latter, is there jurisdiction to make changes?	Jurisdiction for each change detailed above is outlined in the Track Changes.
338.	Beds of Rivers and Lakes	76. Table 16.1 (and any related Table 17.1 provisions): a. For the conditions to apply, is it correct that the rule must refer to them? If so, aren't the headings of 16.2 (and 17.1) and the Tables misleading (eg. the conditions don't apply to Rule 16-5) – should "some" be inserted before "permitted"?	Yes, and the table heading and description has been altered accordingly.
339.	Beds of Rivers and Lakes	Check all references to Beds of Rivers and Lake Beds. To make sure it is consistent.	This has been checked and changes made where appropriate. See Track Changes.
340.	Beds of Rivers and Lakes	b. Is the introduction in 16.2 accurate? It says that the standard conditions are referred to in a number of the permitted activity rules, but other types of activity also refer to them. Would the introductory wording in 17.1 be suitable?	Yes, and the table heading and description have been altered accordingly. However, I still recommend that the conditions are referred to as standard conditions rather than general conditions. In our opinion the term 'standard conditions' reflects the intent of the conditions, ie. that they are standard throughout the chapter.
341.	Beds of Rivers and Lakes	c. As asked in December in relation to Table 17.1, if the Values drive the standards, how is the recommended new first row appropriate, given the lack of any identified Value?	Yes, I agree that the table is values driven. The table has been altered and the conditions in the row 'General conditions' have been shifted back to 'life supporting capacity'.
342.	Beds of Rivers and Lakes	d. (d)i. as asked in December in relation to Table 17.1, is reference to 5 <i>consecutive</i> days appropriate? Could that mean the activity could be carried out endlessly Mon-Fri (not more than 12 hours a day) with weekends off?	This condition has since been reviewed and further changes recommended (see caucusing reports 8 February and 22 March 2010).
343.	Beds of Rivers and Lakes	ii. Should the inserted "no" be deleted?	This condition has since been reviewed and further changes recommended (see caucusing reports 8 February and 22 March 2010).

Q. No	Issue/ Subject	Question	Comment / Answer
344.	Beds of Rivers and Lakes	e. (j) – in terms of Meridian’s request for “as far as practical”, would a legally acceptable solution be to insert “as far as reasonably practicable” (as compliance with the reasonableness test could be legally determined) or would that not be sufficiently certain?	No. I do not agree with Meridian’s request as it is not certain enough.
345.	Beds of Rivers and Lakes	f. (p) and (q) – couldn’t they just say “... not take place between ...”?	Yes, and the table has been altered accordingly.
346.	Beds of Rivers and Lakes	g. (u) i. Where are the public bathing beaches shown?	The correct term is ‘amenity’, which identifies the public beaches. This is a minor change and has been linked to the TA submission regarding certainty and clarity.
347.	Beds of Rivers and Lakes	ii. When do weekends begin and end?	Weekends are generally defined as 'Saturday and Sunday'. To clarify condition (u) the following sentence has been added: "For the purpose of this condition weekend is defined as midnight Friday to midnight Sunday."
348.	Beds of Rivers and Lakes	h. (x) i. Couldn’t “at reaches valued for trout fisheries as shown in Schedule Ba” be deleted?	Yes’ I agree as the Value column defines where the condition applies
349.	Beds of Rivers and Lakes	ii. When do weekends begin and end?	Weekends are generally defined as 'Saturday and Sunday'. To clarify condition (x) the following sentence has been added: "For the purpose of this condition weekend is defined as midnight Friday to midnight Sunday."
350.	Beds of Rivers and Lakes	I. (w) - is it legally acceptable to refer to a District Plan, Regional Plan or marker, which may change over time? If that is debatable, could the provision stop after “pipeline”, perhaps with reference to the marker in a footnote or in the Guide to the Rules?	In our opinion it is acceptable to refer to a plan in the condition. Other parts of the plan already do this, eg. Chapter 17, Table 17.1, condition (I) which refers to the Regional Coastal Plan. I also think that the frequency of plan changes, and the fact that they have to be publicly notified, helps to provide certainty.
351.	Beds of Rivers and Lakes	77. In the rules, what is the relationship between the different parts of Chapter 16 and the interrelationship between particular rules eg. a. What is the relationship between the rules dealing with dams and the rules dealing with structures? Do all the rules about structures also apply to dams?	The rules regarding structures have been altered to clarify so that it is clear that only Rules 16-1, 16-4, 16-8, 16-9, 16-14 and 16-20 apply to the erection, reconstruction, placement, alteration or extension of dams. Rule 16-12 does not apply to dams and this has been clarified through an addition to Rule 16-12.
352.	Beds of Rivers and Lakes	b. What is the relationship between rules about disturbance and gravel extraction. Do the rules about disturbance (except where otherwise specified) also apply to gravel extraction? (more detail in next question)	Answers to specific questions are below.

Q. No	Issue/ Subject	Question	Comment / Answer
353.	Beds of Rivers and Lakes	78. Gravel extraction: a. What is the relationship between Rule 16-4 and the other gravel extraction rules? Rules 16-15 and 16-15(a) refer to it. Rule 16-2 says it does not apply to permanent removal of bed material. Should Rule 16-4 say the same thing?	Rule 16-4 applies to gravel extraction which is not otherwise regulated by Rule 16-2A. For takes of gravel not captured by either Rules 16-4 nor 16-2A then Rules 16-15 and 16-15A apply. The rules have been amended to reflect this
354.	Beds of Rivers and Lakes	78. Gravel extraction: b. How is gravel extraction dealt with for the rivers referred to in Rule 16-1? Rule 16-2A has the same wording as Rule 16-1(a) but different wording for (b) and (c) and the rest of the rivers are not referred to at all. Is this intentional?	Yes, this is the intent of the rules. As explained in the officers report in chief (section 4.142.2) and the supplementary report (paragraph 40) there was very limited scope for alterations to the rules so I have consequently recommended a set of rules which reflect what is currently in the operative Beds of Rivers and Lakes Plan.
355.	Beds of Rivers and Lakes	78. Gravel extraction: c. Why is the wording of Rules 16-2A, 16-15 and 16-15(a) so different, eg.	Answers to specific questions are below.
356.	Beds of Rivers and Lakes	i. Different introductory wording?	The inconsistency has been noted and the rule has been altered to be consistent.
357.	Beds of Rivers and Lakes	ii. “excavation or other disturbance” vs “excavation, tunnelling or other disturbance”	After discussions with Allan Cook - Group Manager Operations, it was confirmed that 'tunnelling' is not an activity associated with gravel extraction. The use of 'excavation and other disturbances' is also consistent with the Operative Beds of Rivers and Lakes Plan. The rules have been altered accordingly.
358.	Beds of Rivers and Lakes	iii. Is reference to “drilling” intentionally omitted as not being part of gravel extraction during the life of the Plan or is it intended that it would be caught by “other disturbance”?	Drilling is not an activity associated with gravel extraction. Therefore, any drilling of the bed would be for other purposes and would be allowed for as an activity by Rule 16-16
359.	Beds of Rivers and Lakes	iv. Different ancillary activities?	The inconsistency has been noted and the rule has been altered to be consistent.

Q. No	Issue/ Subject	Question	Comment / Answer
360.	Beds of Rivers and Lakes	method 6-9. Consider how it might link to the Code of Practice.	Allan Cook has responded as follows to the suggestion of Mr Julian Watts to incorporate the morphological characteristics section from the Environmental Code of Practice into Method 6-9 : "I am firmly of the opinion that this section needs to be referenced in Rule 16-13. It provides a higher order focus; it has specificity and therefore certainty, which Mr Watts suggested Method 6-9 wording does not; and as mentioned above, obviates the need for activity specific threshold standards which are entirely arbitrary." I believe that the answer to the question is that there is no specific link between the two except that the information which results from either may assist the research of the other.
361.	Beds of Rivers and Lakes	79. Rule 16-1: a. Has this wording gone back to the POP as notified?	Largely yes, the wording of Rule 16-1 is now as it was notified. I have detailed our reasoning for this in paragraph 37, page 7 of mine and Ms Barton's supplementary report. The only outstanding changes are the addition of 'new', the replacement of 'water body' with 'river' and the replacement of 'associated' with 'ancillary'.
362.	Beds of Rivers and Lakes	b. Which rules now deal with other structures in these rivers?	Where the river listed in Rule 16-1 has a value of 'Sites of Significance - Aquatic' or 'Sites of Significance - Cultural' or 'Natural State' then Rule 16-4 applies; otherwise Rule 16-12 applies.
363.	Beds of Rivers and Lakes	c. What is meant by the term "protected rivers" in the Rule column and how does it relate, if at all, to the values in Schedule Ba?	The term 'protected rivers' does not relate to Schedule Ba. The term has been carried over from the Beds of Rivers and Lakes Plan Rules 7, 13 and 16.
364.	Beds of Rivers and Lakes	d. The Rangitikei Water Conservation Order defines "Upper River" and "Middle River" but not "Upper and Middle Rangitikei River", so presumably (b) should start "the Upper River and Middle River..."?	Yes. The rule has been amended accordingly.
365.	Beds of Rivers and Lakes	e. Would "reconstruction, alteration or extension" of a dam structure be a permitted activity in Rule 16-12 or is that caught by another rule and, if so, which one(s)?	The reconstruction and alteration of an existing dam in the rivers covered under Rule 16-1 would be permitted (with conditions) under Rule 16-6. The extension of an existing dam would be permitted under Rule 16-8 if it was a small dam, otherwise it would require a consent under the default Rule 16-20



Q. No	Issue/ Subject	Question	Comment / Answer
366.	Beds of Rivers and Lakes	f. What is the logic of when “damming” or “dams” is referred to in the Rule column (cf. Rules 16-8 - 16-9)?	Dam generally refers to the 'dam structure' while damming refers to the body of water behind the structure. The rules have been checked to ensure that the correct terms have been used. Alterations have been made to the title of Rule 16-1, heading of section 16.5, heading of Rule 16-8 and heading of Rule 16-9
367.	Beds of Rivers and Lakes	Rules 16-1 and 16-2. Check all references to make sure they correspond to the WCO's.	With regards to Rule 16-1, all of the rivers in (a) to (e) correspond with the notices and orders except (e) where, in our opinion, the local water conservation notice does not specify the mainstem of the Hautapu River; however, I do not believe there is scope available to fix this. With regards to Rule 16-2, I have outlined in the officers' report in chief at section 4.142 and the supplementary report sections 37-41 how the rule aligns with the notices and orders
368.	Beds of Rivers and Lakes	80. Rule 16-4: a. Since section 13 relates to beds of rivers or lakes, wouldn't it be better to refer to rivers or lakes rather than water bodies? (rule is inconsistent in the wording currently)	No. The definition of water body as we have recommended it to the Panel includes both the bed and the body of water in the river or lake. The term is also consistent with Schedules Ba and D, therefore it is an appropriate term to use.
369.	Beds of Rivers and Lakes	b. Why have the three words from section 13(1)(a) been chosen and the other words omitted?	The intent of this rule is to control new structures or extensions of existing structures, ie. the erection, placement or extension. With regards to the use that is otherwise controlled by Rule 16-5, reconstruction and alteration is controlled by Rule 16-6 and removal or demolition is covered by Rule 16-8.
370.	Beds of Rivers and Lakes	c. Why is the wording “in, on, under or over” in (a)(i), “in or on” in (b)(i), “within” in (c), and “involving” in (d)? Should they all be “in, on, under or over”?	Yes, (a)(i), (c), and (d) should all say 'in, on, over or under'. It is appropriate, however, for (b)(i) to only be 'in or on' as this is the type of activity that will most affect the value of SOS-C .
371.	Beds of Rivers and Lakes	d. Why is the exception for lines for NS set out in (a)(i) but the exception for lines for SOS-A and SOS-C set out in (c)? Would it be more consistent to move the NS exception to a new (ba)?	Yes, I agree and the rule has been altered as appropriate.
372.	Beds of Rivers and Lakes	e. Is it possible to develop wording that is more elegant than “go 'over'” and should it be stated that no support structures are in the bed?	Yes, the wording has been altered to the following “...suspended above the <i>bed</i> <sup>^</sup> of a <i>river</i> <sup>^</sup> or <i>lake</i> <sup>^</sup> valued as Natural State and that do not require a support structure in, on, over or under the bed which are regulated by Rule 16-10”.

Q. No	Issue/ Subject	Question	Comment / Answer
373.	Beds of Rivers and Lakes	f. Is there any overlap in areas covered by Rules 16-1 and 16-4? If so, should Rule 16-4 state that it doesn't apply to the Rule 16-1 areas (assuming that rules about structures are also intended to apply to dams)?	Yes, a number of the rivers in Rule 16-1 are also valued as Natural State and/or SOS-A, SOS-C in Schedule Ba. It would be appropriate to place an exception in Rule 16-4 that states "except where prohibited by Rule 16-1".
374.	Beds of Rivers and Lakes	81. Rule Guide 16-1 to 16-4 - Are there any other provisions in the POP that might apply eg. land or biodiversity provisions?	We have given this rule guide some thought and concluded that although it is useful and provides good guidance to Plan readers and decision-makers, it could cause confusion, ie. that only a DOC concession is required. For that reason removal of the rule guide is recommended
375.	Beds of Rivers and Lakes	82. Rule 16-5 a. What is the jurisdiction to include "lawfully established"? The Rule Guide in the POP as notified seemed to say that the Council accepts the presence of existing structures, with no mention of the lawfully established qualification?	I believe that the intent of the rule guide is to guide decision-makers on lawfully established structures. The rule guide has been altered accordingly and scope can be found in submission 160/20
376.	Beds of Rivers and Lakes	b. How does this rule work in the context of perhaps three separate consents for the structure (land use consent), associated/ancillary damming or diversion (water permit), and associated/ancillary discharge (discharge permit) that had conditions imposed when granted, some of which may apply over time (eg. conditions about discharge), given the lack of any condition requiring consent conditions to be complied with? If there is a problem, is there jurisdiction to fix it?	I don't believe there is a problem. The consent conditions for a structure will naturally take precedence until the consent expires. Upon expiry, Rules 16-5 to 16-7 will 'kick in'. For example, if a bridge consent is issued in 2010 for 5 years (to allow the structure to be built); upon expiry the rules in the Plan (16-5 to 16-7) will allow the continued use and maintenance, and the eventual removal.
377.	Beds of Rivers and Lakes	c. Is one of the implications or goals of Rule 16-5 and issuing only short-term consents to enable the Council to change the rules over time and impose additional conditions on permitted activities (or change permitted activities into controlled activities eg. Rule 16-9) that would not have been able to be done if a resource consent were held?	No. The rule is in place so that short-term consents can be issued for the activity and the ongoing use and maintenance is allowed without a consent being required. This also has the desired consequence of not having to regain consents for the activity or pay ongoing consent monitoring charges.

Q. No	Issue/ Subject	Question	Comment / Answer
378.	Beds of Rivers and Lakes	83. Rules 16-5 and 16-7 - Leaving aside the insertion of "lawfully established" in 16-5, given the absence of any requirement to comply with original consent conditions, how would the Council go about imposing a condition that would remain in effect - for example, that a structure be removed, or a condition about removal, or any other condition that ought to be complied with over time?	A condition such as removing the structure before X date would be within the life of the consent and enforced prior to its expiry.
379.	Beds of Rivers and Lakes	84. Rule 16-6: a. There are 3 different discharges (a)(iii), (b)(ii) and (b)(iv): i. Are the conditions referring to the limit for each discharge, or the total from all sources, or only to some of the discharges?	The rule has been altered so that condition (b) now refers to discharges to land of removed bed material and that the discharge complies with Rule 13-25, except for condition (c)(ii) which is not an appropriate condition for the rule.
380.	Beds of Rivers and Lakes	ii. Is condition (g) relevant to discharges other than (b)(iv)?	The rule has been altered so that condition (b) now refers to discharges to land of removed bed material and asks that the discharge complies with rule 13-25 except for condition (c)(ii) which is not an appropriate condition for the rule.
381.	Beds of Rivers and Lakes	iii. Are the discharge provisions, especially (b)(ii) and (iv) intended to apply outside the bed of the river or lake? If so, how does one tell when the provision is meant to apply in the location of the rule or when it could apply anywhere?	Yes, they are. Conditions (b)(ii) and (iv) have been altered to state that it is a discharge into or onto land along with the appropriate RMA sections. So long as the conditions are complied with, then the discharge may be to any land rather than that adjacent to the bed where the material has been extracted from.
382.	Beds of Rivers and Lakes	b. Discharge of "water or sediment" is used Rule 16-6(a)(iii) (in contrast to "water or contaminants" in Rule 17-6(a)(iii)). In light of the variation in the terminology adopted throughout the POP about things being discharged, was consideration given to the fact that any minor discharge of contaminants would mean that the activity would need consent?	The discharge of contaminants into surface water is controlled by Chapter 13 and for minor activities, permitted. A clause has been added to each of the rule guides to clarify that contaminants discharged under the rules in Chapter 16 to water must comply with Chapter 13.
383.	Beds of Rivers and Lakes	c. How does this rule relate to Rule 16-12 in terms of maintenance or upgrade vs reconstruction, alteration or extension?	There is a clear overlap between the two rules – Rule 16-12 now only applies to extensions while reconstruction and alteration is covered by Rule 16-6
384.	Beds of Rivers and Lakes	Rule 16-6 - consistency with Provisional Determinations around lawfully established in relation to existing activities	Rule 17-6 also specifies that it is maintenance of a 'lawfully established' structure. Therefore, our recommendations with regards to Rule 16-6 will make the rules consistent

Q. No	Issue/ Subject	Question	Comment / Answer
385.	Beds of Rivers and Lakes	85. Rule 16-7:a. Should this say “Except as provided by Rules 16-12(a) and 16-14(ga)” or should removal or demolition be removed from Rule 16-12(a)?	Rule 16-12A has been altered to remove 'removal or demolition'. I agree that the removal or demolition of a monitoring device is adequately permitted by Rule 16-7. However, a cross reference has been added in Rules 16-7 to 16-14 to clarify that if anyone wishes to remove a regional council structure, they require a resource consent.
386.	Beds of Rivers and Lakes	b. Does the lack of reference to discharge of contaminants (cf. Rule 17-7) mean that this rule is limited in its scope? What sort of structures can be removed or demolished with no discharge of contaminants other than water or sediment (are plants and bed material not even included cf. Rule 16-6)?	The discharge of contaminants into surface water is controlled by Chapter 13. A clause has been added to each of the rule guides to clarify that contaminants discharged to water under the rules in Chapter 16 must comply with Chapter 13. The removal of plants is otherwise permitted by Rule 16-17 in this chapter.
387.	Beds of Rivers and Lakes	86. Rule Guide for Rules 16-5 to 16-7 - Why is the presence of existing dam structures dealt with separately and, if they have not been lawfully established, does the Rule Guide accurately reflect the rule?	On review of this rule guide I believe that the note regarding the presence of existing dam structures does not add any value to the guide and repeats the second sentence to some extent. I have recommended that this be removed and that the rule guide is clarified to be consistent with the rules it is guiding by adding 'lawfully' in front of 'established' in the first sentence.
388.	Beds of Rivers and Lakes	87. 16.5 Given the distinction the rules seek to draw between dam structures and damming, should the heading add “damming”?	Yes, I agree with this and the heading has been altered accordingly.
389.	Beds of Rivers and Lakes	88. Rule 16-8 – What is this rule trying to achieve?: a. What is the purpose of “within artificial watercourses and on land” and how does it relate to (a) to (d)?	Damming of water by a dam is commonly undertaken on farm land or in an artificial watercourse for water harvesting purposes. This activity still impacts on water quality and quantity. On review of this rule, I believe that there is a gap in activity descriptors (a) and (d) in how they relate to artificial watercourses and land; accordingly, I have recommended to add 'or within an artificial watercourse or on land.... pursuant to s9(2)' to each.
390.	Beds of Rivers and Lakes	b. Why are activities under section 13(1)(d) eg. depositing substances not referred to?	I believe this was an oversight and it has been added to Rule 16-8.
391.	Beds of Rivers and Lakes	c. In dam building, are there no contaminants other than sediment that would be discharged?	The discharge of contaminants into surface water is controlled by Chapter 13. A clause has been added to each of the rule guides to clarify that contaminants discharged to water under the rules in Chapter 16 must comply with Chapter 13.

Q. No	Issue/ Subject	Question	Comment / Answer
392.	Beds of Rivers and Lakes	d. Might there be uses other than “consumptive uses” and, if so, would it be desirable to say “... for any purpose other than in (b), including for consumptive use...” (with rewording also in Rule 16-9)?	Yes, I agree. The wording has been altered so that the words 'consumptive use' are no longer used and it instead refers to takes for any use other than the normal operation of the dam.
393.	Beds of Rivers and Lakes	e. condition (c): i. in light of the definition of large dam under the Building Act, should this state “... depth shall be less than 3 m”?	Yes, it should. The condition has been altered accordingly.
394.	Beds of Rivers and Lakes	ii. is measuring from the natural ground level consistent with the Building Act definition of large dam ie. is it the measurement from natural ground level or the actual depth of the water that is important – or are they the same thing?	The Department of Building and Housing has issued a guide to the Building Act with regards to dams, called "Dams Safety Scheme. Guidance for regional authorities and owners of large dams". Within this guide depth is defined as: "Depth refers to the height of the reservoir at the base of the upstream dam wall or artificial barrier". In view of this definition, I would say that the measurement is taken from the base of the structure, ie. the natural ground level, and that condition (c) is correct in its wording.
395.	Beds of Rivers and Lakes	f. condition (d) – is “probable maximum flood” a term with a clear meaning (and in Rule 16-9)?	I have spoken with Peter Blackwood (Manager Investigations & Design) who agrees that ‘probable maximum flood’ is not a clear term. He recommended for Rule 16-8 that reference to a 500-year flood is given. With regards to Rule 16-9, he notes that it is difficult to provide a broad condition because that the dam could be of any size and in any location. With regards to condition (b) I have recommended its deletion for a number of reasons which are detailed below.
396.	Beds of Rivers and Lakes	g. Is the reference to “watercourses” in condition (f) referring to artificial watercourses, rivers, or both?	It is referring to both. To make this clear the rule has been altered.

Q. No	Issue/ Subject	Question	Comment / Answer
397.	Beds of Rivers and Lakes	h. To be consistent with Mr Lambie's report and the Building Act, shouldn't condition (I) say "must be less than 20,000 m <sup>3</sup> ?"	<p>Yes, that would make it consistent with the Building Act. However I have recommended that this clause be deleted.</p> <p>The definition of a Large Dam in the Building Act is one that is both 3m or more in depth <b>and</b> stores 20,000 m<sup>3</sup> of water or more.</p> <p>So essentially a dam is still a small dam (under the act) if it's 2.5 m high but holds 50,000 m<sup>3</sup> of water.</p> <p>Therefore Rule 16-8 is more restrictive than the Building Act if it contains conditions which restrict both the dam height to 3m and the storage capacity to 20,000 m<sup>3</sup>.</p>
398.	Beds of Rivers and Lakes	l. Should there be a Rule Guide at the end of section 16.9 to say that dams and damming in artificial watercourses are dealt with in Rule 16-8?	Yes, there should be – and the rules in section 16.9 have been altered to ensure that there is no overlap with the rules in 16.5; a rule guide has also been added after section 16.9.
399.	Beds of Rivers and Lakes	89. Rule 16-9: a. Doesn't this rule blur the distinction sought to be made by other rules between damming and dam structure and the activity that the rule is seeking to regulate ie. the Activity is damming but the condition relates to a dam structure?	Yes. Condition (b) of this rule does blur the distinction and is able to be removed. We are satisfied that the controls over the rules adequately cover the concerns we have about existing dams and the effects the structures have on the environment. I also note that in order for the damming activity to comply with this rule it needs to have been lawfully established, which means there is a high likelihood the dam will already have an adequate spillway.
400.	Beds of Rivers and Lakes	b. If the damming (or the dam) was lawfully established by a resource consent, is it legally valid to turn it into a controlled activity?	Yes. This rule seeks to control the ongoing effects once the consent has expired.
401.	Beds of Rivers and Lakes	90. Rule Guide for Rules 16-8 to 16-9:a. Should 15(1) be 13(1) and perhaps also 9(2)?	Yes, that is correct. The rule guide has been altered accordingly.
402.	Beds of Rivers and Lakes	b. Is it correct to say that for existing dams the rules only deal with damming and not the dam itself? If so, aren't the references to "dams" in the heading of 16.5 and the Rule column misleading or confusing (not to mention the rules themselves)?	Both dams and damming is relevant. Rule 16.8 deals with both dams and damming while Rule 16.9 deals with damming only.

Q. No	Issue/ Subject	Question	Comment / Answer
403.	Beds of Rivers and Lakes	91. Rule 16-10: a. Why does condition (a) refer to the support structures but the other conditions refer to the “activity” (which does not expressly refer to support structures)?	In this rule the erection, reconstruction, placement, alteration or extension of a line, cable, pipeline or ropeway is the primary activity, while condition (a) makes support structures an ancillary activity. So the reference to 'activity' in other conditions is in fact only to the primary activity stated above.
404.	Beds of Rivers and Lakes	b. Condition (a)(i) – what does this mean? Is this intended to mean what it seems to say – ie. permitted as long as it is not, at any stage, on the surface of the bed? How does this work with support structures?	Yes, that is correct. Structures which are in or on the bed can become a navigation hazard.
405.	Beds of Rivers and Lakes	c. Condition (a)(i) and (ii) can “of the water body” safely be deleted?	Yes. The rule has been amended accordingly.
406.	Beds of Rivers and Lakes	d. Condition (b) – why not refer to river or lake, rather than water body, given the Activity column wording? Are there any NS lakes?	It is correct that there are no NS lakes. Using the definition of water body recommended by us in our supplementary planning report, I believe that it is an appropriate term to use and do not recommend any changes.
407.	Beds of Rivers and Lakes	e. Condition (d) – if there is to be reference to Schedule E habitats and given that the Activity column refers to rivers or lakes (but that the ancillary activities could presumably be to other areas), why not just say “not take place in any rare habitat or threatened habitat”? (this issue is also relevant to other rules)	Yes, on review I agree with this. This rule and other rules with the same activity condition have been amended.
408.	Beds of Rivers and Lakes	Rule 16-11 (c)(ii) - look to Jim's report re taking this out	Rule 16-11 has been altered in line with James Lambie's recommendation at para 206 of his evidence in chief: "Delete the reference to a minimum culvert installation depth of 0.3 m".
409.	Beds of Rivers and Lakes	92. Rule 16-11 (and other rules that omit reference to depositing a substance under section 13(1)(d)):a. Condition (c) refers to “fill” but there is no mention in the Activity column of depositing any substance, which is restricted under s13(1)(d) (cf. Rule 16-14(e) which makes deposition of “rock, shingle, earth, debris or other <i>clean fill</i> ” a discretionary activity but, oddly, there is no equivalent provision in Rule 16-13 making it a permitted activity).	See answers below.
410.	Beds of Rivers and Lakes	I. Should the Activity column in Rule 16-11 refer to depositing fill or any substance?	Yes, 16-11 should refer to s13(1)(d) regarding the deposition of substances.

Q. No	Issue/ Subject	Question	Comment / Answer
411.	Beds of Rivers and Lakes	ii. If so, are there any conditions that restrict the type of fill or substance and, if not, is that a problem?	Yes, there are conditions in the General conditions Table 16.1 regarding the types of substances that can be deposited – see condition (e)
412.	Beds of Rivers and Lakes	iii. Does inserting reference to depositing fill or any substance in Rule 16-11 cause issues for other rules, if the drafter was using the term “disturbance” in the rules to mean more than just s13(1)(b) activities?	No, it does not cause an issue. Where appropriate other rules have been amended to include reference to s13(1)(d).
413.	Beds of Rivers and Lakes	iv. When there is no condition that helps to make it apparent that depositing was intended to be included as part of the Activity, is there scope to include depositing in other rules if that would be a normal part of the activity? If so, what rules?	Yes, reference to s13(1)(d) has been added to Rules 16-4, 16-6, 16-12, 16-12A, 16-14, 16-15, 16-15A and 16-17. Scope is found in the Territorial Authorities submission requesting that amendments are made to the plan to make it clear and certain.
414.	Beds of Rivers and Lakes	b. Condition (a)(iii): i. Is it the <i>water body</i> that is managed by the Regional Council?	Yes, the rule has been amended to clarify this.
415.	Beds of Rivers and Lakes	ii. Is this meaning Flood Control and Drainage Value (however that term is eventually consistently described)?	Yes, the rule has been amended to clarify this.
416.	Beds of Rivers and Lakes	c. Condition (c)(i) – are pipes the only way of making a culvert over the life of the Plan?	No. The rule has been amended to use the words 'single or multiple culvert units' rather than pipes.
417.	Beds of Rivers and Lakes	d. Condition (c)(ii) - what is the source of this wording? It does not seem consistent either with Horizons' submission or Mr Lambie's s42A report pages 44-45. Are the dimensions for each width and height or added together and what happened to a circular culvert diameter dimension?	This provision has been reviewed. On the advice of Peter Blackwood we now have two conditions – one for circular culverts and one for other shaped culverts.
418.	Beds of Rivers and Lakes	e. Condition (c)(iii) – what does the “average width of the wetted part of the channel” mean?	The term the ‘average width of the wetted part of the channel’ means what it says – measure the wetted channel where the culvert is to be placed and make sure it is equal to or greater than the wetted part. As this only allows for relatively small culverts, they will only be placed in small streams where the banks and channel are normally well defined.
419.	Beds of Rivers and Lakes	f. Condition (c)(v) – why is Mr Lambie’s suggestion (page 45, para 196) that the depth restriction be deleted not accepted?	This was an oversight. Rule 16-11 has been altered in line with James Lambie’s recommendation at para 206 of his evidence in chief: "Delete the reference to a minimum culvert installation depth of 0.3 m".



Q. No	Issue/ Subject	Question	Comment / Answer
420.	Beds of Rivers and Lakes	93. Rule 16-12: a. This seems to be a permitted activity default rule for structures that are covered by the section 13(1)(a) words (other than “use”). In light of the choices of language for section 13(1)(a) activities in other rules, is it the case that a gap in the wording of those rules would mean that the activity covered by the gap becomes a permitted activity if the conditions are complied with?	This rule has been reviewed and I have removed reference to reconstruction and alteration, which is otherwise covered by Rule 16-6. I believe that the rule as it stands now serves its intent, ie. to permit structures not regulated by other rules, eg. Rule 16-11 culverts.
421.	Beds of Rivers and Lakes	b. Condition (a)(iii) – same question as for previous rule.	Wording has been changed to refer to water bodies with the value of Flood Control and Drainage schemes
422.	Beds of Rivers and Lakes	c. Condition (c) – are whitebait and maimai structures “in or on” the bed or also “over” the bed?	They are also over the bed. The wording has been altered.
423.	Beds of Rivers and Lakes	d. Why is the rule in this location?	These Permitted Activity rules are located under the activity heading that is most relevant to the activity. For these sections the Permitted Activity rule is the default rule. This is similar to the structure in other activity sections where the default rule comes after the more specific rules. The difference is in this case is that the default rule is Permitted rather than Discretionary.
424.	Beds of Rivers and Lakes	94. Rule 16-12(a) and other rules that refer to section 13(1)(a) activities: a. This rule includes all the words from section 13(1)(a) other than “use”, including removal or demolition. Most rules (eg. Rule 16-13) do not refer to removal or demolition but Rule 16-7 does. Should removal or demolition be covered by this rule or Rule 16-7?	Yes, removal or demolition has been removed as it is otherwise covered by Rule 16-7.
425.	Beds of Rivers and Lakes	b. Condition (a) – Are the words “For all structures located in or on the bed of a river or lake,” needed?	Yes. To make it consistent with other rules and ensure that the rule is clear, I am recommending that it stays.
426.	Beds of Rivers and Lakes	c. Condition (b) – Is the RMA definition appropriate, given that it includes fish whether living or dead? If not, is there a solution or is the definition close enough to be acceptable?	No, the RMA definition is not appropriate. I have reviewed the rules in this chapter and removed the '^' so that fish is referred to in its normal meaning rather than the RMA meaning.
427.	Beds of Rivers and Lakes	d. Condition (e) – Are the words “of the erection,... quality,” needed and, for consistency, should “works” be “activity”?	No. The words “of the erection,... quality” are not required; and yes, for consistency ‘works’ should be reworded to ‘activity’.

Q. No	Issue/ Subject	Question	Comment / Answer
428.	Beds of Rivers and Lakes	Rule 16-13 - should it only refer to rivers and not wetlands and lakes and consider artificial watercourses	This rule now only refers to rivers and not lakes or wetlands, as there are no lakes or wetlands that are part of the Flood Control and Drainage value in Schedule Ba. Artificial watercourses are not relevant as there are not part of the Flood Control and Drainage Value. Any drains etc that are part of Horizons' flood control area are modified 'natural' watercourses.
429.	Beds of Rivers and Lakes	95. Rule 16-13: a. It seems various relevant activities are not permitted by this rule, eg. "the deposition of rock, shingle, earth, debris or other <i>clean fill</i> ", "planting of any tree or shrub" (cf. Rule 16-14) and any section 13(1)(a) activities not referred to eg. removal or demolition of a structure and any section 9 land use activities that might be restricted by the Chapter 12 rules (eg. Rule 12-4 and the definition of Hill Country Erosion Management Area ie. a pre-existing slope of 28° or greater). Planting plants is permitted by Rule 16-17 and removal or demolition of structures is permitted by Rule 16-7, but they do not require compliance with the COP. If the wording has not been carefully chosen, is there scope to fix the wording (not just for this rule).	Rule 16-13 has been reviewed with the comments given in mind. Additions have been recommended for this rule, such as reference to s13(1)(d) to ensure that deposition of substances (eg. soil, rock etc) onto the bed is allowed for. Reference has also been added to activities that disturb or discharge to land. With regards to activities such as disturbance of plants and demolition of structures (which the rule is silent on) it is intended that other rules in this chapter will cover the activity, eg. Rule 16-17 in the case of plants. If the panel are of the mind that the reliance on other rules for use of the Code of Practice is an issue then it is suggested that the rule is amended as appropriate. However in our opinion scope for this change is quite limited.
430.	Beds of Rivers and Lakes	b. How does Activity (b) relate to Rules 16-2A, 16-15 and 16-15(a) about gravel extraction? Presumably, this rule is not intended to permit gravel extraction?	Yes, the intent of the rule is that it includes gravel extraction, and this is a specific activity which is outlined within the COP. The rule has been amended so that it is explicit that gravel extraction is permitted by this rule.
431.	Beds of Rivers and Lakes	c. Should reference to "water body" in the Activity column be to river or lake (assuming there are some FC/D lakes)?	The term 'water body' is used to refer to the fact that Schedule Ba recognises 'water bodies with x values' (rather than 'rivers with x value'). In this instance only rivers are applicable. So in our opinion, this is the correct term to use and I do not recommend that it is changed.
432.	Beds of Rivers and Lakes	d. Are there lakes that are identified as Flood Control or Drainage areas (or Flood Control and Drainage or whatever the consistent wording of that term is to be)? If so, how do (a) and (b) in the Activity column mesh ie. how could one do (a) in, on or under the bed of a lake and comply with (b)?	No, there are no FC/D lakes and the rule has been altered accordingly.

Q. No	Issue/ Subject	Question	Comment / Answer
433.	Beds of Rivers and Lakes	e. Are there any artificial watercourses in FC/D areas (also relevant to Rule 16-14)?	No, only highly modified natural watercourses.
434.	Beds of Rivers and Lakes	f. Activity (d):i. Discharge to where - land or water?	The discharge should be to land <b>and</b> water.
435.	Beds of Rivers and Lakes	ii. Doesn't introduction of this recommended wording cause consistency issues with other rules with activities that may also have weed or other material to discharge?	On review – yes, it is inconsistent with conditions in other rules (eg. Rule 16-18(c) ). This activity descriptor has been recommended to be altered to make it consistent with other rules.
436.	Beds of Rivers and Lakes	iii. Why is clean fill being referred to?	Often material such as concrete (excluding reinforced concrete), clay, soil and other virgin materials are used as part of structures built for flood control purposes. Collectively, these materials are referred to as cleanfill. However the definition of cleanfill in the Plan is not appropriate in this instance so it is recommended that 'cleanfill material' is instead referred to.
437.	Beds of Rivers and Lakes	iv. In contrast to other rules about ancillary discharges, this rule seems to make it clear that the discharge needs to be in the FC/D area. Is that intended?	No, that is not the intent of the rule. So long as the conditions are complied with then the discharge can be outside of the area which holds the FC/D value.
438.	Beds of Rivers and Lakes	v. Is it intended that ancillary discharges in other rules do not need to be in the location of the activity?	Yes, so long as the conditions are complied with.
439.	Beds of Rivers and Lakes	g. Condition (b)(iii) – are any of the recommended additional words needed? Isn't that information already in Rule 16-4(d) and Rule 16-13 condition (a)?	Yes, otherwise it is not explicit that it is allowed for.
440.	Beds of Rivers and Lakes	Take (e) from Rule 16-14 and put it into Rule 16-13(d)	No, (d) in Rule 16-13 is already consistent with s13 RMA
441.	Beds of Rivers and Lakes	Does there need to be a cross reference between Rule 16-12 and 16-14 in a rule guide?	No, in our opinion Rule 16-12 is explicit enough that structures can not be built in a water body with a value of Flood Control and Drainage.
442.	Beds of Rivers and Lakes	Rule 16-14 - may need to go back to the wording in POP as notified. If change this then the heading would only deal with beds and not beyond as listed in (h) to (k)	No. It is recommended in the End of Hearing track changes that the rule be altered so that it has reference to s9 RMA when the activity is listed in the areas (h) - (k)
443.	Beds of Rivers and Lakes	96. Rule 16-14: a. The addition of section 13(1) clarifies that the activities are restricted to those in the beds of rivers or lakes, but how does that relate to (h) to (k), which seem to extend beyond the beds of rivers and lakes? Is section 9(2) relied on for those restrictions?	Yes, the rule has been amended to clarify that s9(2) is relied upon for activities beyond the bed of the river.

Q. No	Issue/ Subject	Question	Comment / Answer
444.	Beds of Rivers and Lakes	b. If those activities extend beyond the bed of the river or lake, how does that relate to the areas defined as Flood Control or Drainage value – how far either side of the water or the bed do the values extend? Where is that explained in the Plan?	The rule now relies on restricting activities under s9(2)RMA. The wording of the rule has also been amended to include adjacent land as described in (h) to (k) of the rule
445.	Beds of Rivers and Lakes	c. Is the meaning of (g) clear enough? Which section of the RMA sanctions restrictions relating to it?	s30(1)(c)(iv) RMA permits the Regional Council to control this activity.
446.	Beds of Rivers and Lakes	d. While (h) uses the term bed in relation to an artificial watercourse (an issue raised earlier), (j) and (k) do not. What terminology is appropriate?	There are no artificial watercourses within the Region that are controlled as part of the Region's flood control and drainage schemes (FC/D value) so this reference is not applicable and it is recommended that it be removed.
447.	Beds of Rivers and Lakes	e. Are any of the areas in (h) to (k) outside the bed of a river or lake and also outside the bed (however that is defined) of an artificial watercourse? If so, is the chapter heading misleading "Structures and Activities involving the Bed of Rivers, Lakes and Artificial Watercourses, and Damming"?	After careful consideration of this point, we believe that the section heading (16.7) adequately describes controls within these rules; otherwise, we hold no firm view about changing the overall chapter heading.
448.	Beds of Rivers and Lakes	Rule guide for 16-14 - does it need to be revised?	Yes. There is no reference to Regional Council owned structures.
449.	Beds of Rivers and Lakes	97. Rules 16-15 and 16-15(a): a. The Activity refers to "removing" gravel but the third and fourth columns refer to both removed and extracted (or variations thereof) – see eg. condition (d) in Rule 16-15 which refers to both. Should one base word be used for both and, if so, is removal or extraction preferable?	Use of the word extraction is preferable. The term 'removal' has been altered to 'extraction' as appropriate.
450.	Beds of Rivers and Lakes	b. Why is drilling not referred to?	Drilling (and tunnelling) are not actions undertaken in association with the activity of gravel extraction.
451.	Beds of Rivers and Lakes	i. Is it intended to be excluded or not?	Yes, it is intended that drilling is excluded.
452.	Beds of Rivers and Lakes	ii. If so, does it need to be explicitly excluded as isn't it ambiguous as to whether or not it is included within "or other disturbance" or whether it is a permitted activity under Rule 16-16?	After discussions with a number of engineers we have concluded that drilling and tunnelling are not activities associated with gravel extraction. Gravel extraction is normally undertaken by means of a digger extracting the gravel via a scooping method using the digger's 'bucket'. Any drilling or tunnelling is therefore permitted by Rule 16-16, which in our opinion is quite clear.

Q. No	Issue/ Subject	Question	Comment / Answer
453.	Beds of Rivers and Lakes	98. Rules 16-15 to 16-17 Activity and condition – how does the term “wetland” relate to the bed of a river (or lake)? Wetland is not included in the activity column.	Strictly, there is no bed to a wetland except where the wetland is incorporated as part of a bed of a river or lake. These rules have been reviewed and double ups between the activity columns have been removed where appropriate.
454.	Beds of Rivers and Lakes	99. Rule 16-15: a. Why are no ancillary activities listed (in contrast to most other rules of the POP, including Rule 16-15(a) eg. discharges to air)?	The rule has now been amended to include the appropriate ancillary activities.
455.	Beds of Rivers and Lakes	b. How does the rule relate to the beds of a lake?	See answers below.
456.	Beds of Rivers and Lakes	i. While Genesis sought the inclusion of “naturally occurring” lake, the Activity wording only seems to permit activities in the bed of a river. To achieve the intent of what Genesis was seeking, it is necessary to add “or lake” after river? (also relevant to Rules 16-15(a) and 16-16)	Yes, the addition of ‘or lake’ after ‘river’ in the activity description will achieve the intent of allowing extraction from an artificial lake, as extraction is not otherwise permitted in Rule 16-19 (Bed disturbance of artificial lakes to maintain their function).
457.	Beds of Rivers and Lakes	ii. Would that also remove potential confusion caused by conditions (a) and (f), which refer to a lake?	Yes, the amendment will remove the confusion that might potentially otherwise be caused.
458.	Beds of Rivers and Lakes	100. Rule 16-15(a): a. Both this rule and Rule 16-16 say “Except as regulated by other rules” – does it work to have two rules saying that? (also relevant to Rule 16-16)	No, it does not work to have both rules saying that. Rule 16-15A should refer to regulation by Rules 16-2A and 16-15.
459.	Beds of Rivers and Lakes	b. Discretion (c) refers to deposition on the bed, but the Activity description does not include deposition. Is there jurisdiction to add it?	Yes, the intent of the rule is that it was including deposition of substances. There is scope to add it in submission 346/100 .
460.	Beds of Rivers and Lakes	c. What, if any, are the implications of referring to financial contributions here if other rules do not do that?	The reason for including financial contributions is because this rule is Restricted Discretionary, which means that all matters of discretion must be explicitly stated.
461.	Beds of Rivers and Lakes	101. Rule 16-17: a. Condition (a) – should the Strategy be identified?	This is an issue that I have considered carefully. For certainty and to be consistent with other recommendations made to the Panel (see Rule 14-1 as recommended in the End Of Hearing Report) I recommend that the date of the report be added in the condition.
462.	Beds of Rivers and Lakes	b. Condition (b) – should this refer to Flood Control or Drainage Value?	Yes, it should refer explicitly to the Flood Control and Drainage Value. The Track Changes have been altered.

Q. No	Issue/ Subject	Question	Comment / Answer
463.	Beds of Rivers and Lakes	102. Section 16.9 – Isn't the heading confusing, because other rules (eg. Rules 16-8, 16-14) also deal with activities in artificial watercourses?	In our opinion this confusion is clarified by the guide in Rule 16-18, which explains that damming of artificial watercourses is provided for by the rules in section 16.5. Condition (b) also clarifies that Rule 16-14 controls artificial water bodies. So no, in our opinion the heading is clear.
464.	Beds of Rivers and Lakes	103. Rule 16-18: a. Does the wording of this rule make sense ie. how do (a) and (b) relate to (c) to (h)?	Yes, in our opinion the wording of this rule makes sense. An example of how (a) and (b) relate to (h) could be the deposition of a large rock (h), which results in diversion of the water (a) and discharge of sediment (b). For (c) an example is maintenance of a structure resulting in discharge to the water of sediment or water (b).
465.	Beds of Rivers and Lakes	b. The heading in 16.9 draws a distinction between artificial watercourses and artificial lakes. When the term "artificial watercourse" is used, presumably it means something other than artificial lake? Should that be made clear or is it clear enough?	In our opinion, the distinction is clear enough.
466.	Beds of Rivers and Lakes	c. How do references to bed <sup>^</sup> , section 13 and the use of the words of section 13 relate to activities in artificial watercourses (which do not seem to be within the meaning of river) and therefore not within section 13? Is section 9(2) the relevant reference for land use-type activities in artificial watercourses, other than in the bed of an artificial lake which would be seem to be covered by section 13?	The term 'bed' as defined by the RMA is not applicable to artificial watercourses. Instead, the disturbance is a disturbance within the meaning of a s9 activity. Where appropriate changes have been made within Rule 16-18.
467.	Beds of Rivers and Lakes	d. There are two discharges referred to – (b) and (e): I. (b) is not clear if it is a discharge to water or land.	The activity descriptions have been reviewed and altered as appropriate.
468.	Beds of Rivers and Lakes	ii. In relation to bed material and plants, which are referred to in both, how do the two provisions relate to each other?	In this example, (e) relates to (a) and would not relate to (b). In our opinion, this rule is clear enough. However, if the Panel were of a mind that it is not clear the addition of the words 'to the extent relevant' before 'associated with the following activities' may aid in clearing some confusion.
469.	Beds of Rivers and Lakes	iii. Are the conditions about discharges relevant to both of the discharges?	See answers below.
470.	Beds of Rivers and Lakes	e. Are the various recommended conditions all relevant to the activities regulated by this rule?	Yes, where relevant.
471.	Beds of Rivers and Lakes	104. Rule 16-19 - the Activity column refers to artificial lake, but condition (a) refers to "artificial watercourse".	See answers below.

Q. No	Issue/ Subject	Question	Comment / Answer
472.	Beds of Rivers and Lakes	a. Presumably it should refer “artificial lake”?	Yes, that is correct. The term has been altered.
473.	Beds of Rivers and Lakes	b. However, is there any reason why the conditions in Section 16.2 that refer to a water body or lake would not apply to an artificial lake, in which case, perhaps all the words after 16.2 could be omitted?	In our opinion, it provides clarity to leave the condition as it is written.
474.	Beds of Rivers and Lakes	105. As asked in relation to Rule 16-8, should there be a Rule Guide at the end of section 16.9 to say that dams and damming are dealt with in Rule 16-8?	Yes, In our opinion the rule guide already states this.
475.	Beds of Rivers and Lakes	106. Section 16.10 and Rule 16-20:a. Is the heading to this rule and the rule worded in a satisfactory manner for a default rule (eg. what about a complete gap in the rules)?	Yes, in our opinion the rule is worded satisfactorily. With regards to a complete gap, there are two options. Firstly, the rule could be left as is. If the RMA restricts an activity and the activity is not provided for in the relevant Regional Plan then it becomes what is called an innominate activity and is processed as a Discretionary activity. If the Panel are of the mind that the rule needs to be explicit and capture all activities, then there is a second option which is to directly reference s13(1) and add to the heading and rule ‘and all other s13(1) RMA activities not covered by this Chapter’. In our opinion, the rule is clear enough and I have not recommended that it be changed.
476.	Beds of Rivers and Lakes	b. Does the reference to “Any activity” mean literally any activity? What activities under the RMA is it referring to?	It is referring to activities within this chapter, and the rule has been amended accordingly.
477.	Beds of Rivers and Lakes	c. If there is a complete gap in regulating an activity, would it be covered by this rule?	Yes, in our opinion the rule is worded satisfactorily. With regards to a complete gap, there are two options. Firstly, the rule could be left as is. If the RMA restricts an activity and the activity is not provided for in the relevant Regional Plan then it becomes what is called an innominate activity and is processed as a Discretionary activity. If the Panel are of the mind that the rule needs to be explicit and capture all activities, then there is a second option which is to directly reference s13(1) and add to the heading and rule ‘and all other s13(1) RMA activities not covered by this Chapter’. In our opinion the second option is best and I have recommended that it be changed.

Q. No	Issue/ Subject	Question	Comment / Answer
478.	Beds of Rivers and Lakes	d. What is the logic of including ancillary activities?	As proposed, the rule did not list ancillary activities, which means that activities considered under this rule are not considered in the same way as the rules which default to this one are.
479.	Beds of Rivers and Lakes	e. Are all relevant default rules consistent in wording and approach?	In our opinion, this default rule is appropriate for this chapter and is consistent with the approach taken for the similar default rule in Chapter 13.
480.	<b>Schedule Ba</b>	107. The User Guide does not seem to be worded very helpfully eg. there is important information on page Ba-154 about what applies where; what is the person to do after Step 2?	User guide has been removed.
481.		108. What is the meaning of the * footnote to the Tables and in particular the reference to “surrounding catchment area”, which would seem to refer to land areas rather than just water?	All land area around the catchment is contributing to the quality and amount of water in the catchment. The definition only talks about the mainstem of the river and not the surrounding landscape so instead of writing and surrounding catchment area in every case we footnoted it at the top of the description.
482.		109. The Schedules are inconsistent in whether NZMS 260 is inserted in front of all the map references. Presumably, it should be in front of all the map references?	This is included in the Track Changes version of the Schedule.
483.		110. Maps Ba4 – it seems difficult to follow the lines for Whai_7b and Whai_7d.	The electronic "Point click plan" will resolve this as you can zoom in closer to see division of lines.
484.		111. Table Ba4 – Coastal Whanganui – The Description wording seems awkward. Why not just say from the Cross-river CMA boundary to the bridge?	The reason the wording is awkward in all of the Water Management Zones that have defined CMA sub-zones is that the CMA sub-zone only applies to the mainstem of the river. This means that the surrounding catchment area is still in the Water Management Sub-zone. Adding the exclusion of the mainstem within the CMA removed the CMA but kept the surrounding catchment within a Water Management Sub-zone



Q. No	Issue/ Subject	Question	Comment / Answer
485.		112. Table Ba5 – Coastal Whangaehu – Same issue. Why not from the Cross-river CMA boundary to Kuangaroa? (same issue with Tables Ba6, Ba7, Ba8, and other Tables with reference to Cross-river CMA boundaries)	The reason the wording is awkward in all of the Water Management Zones that have defined CMA sub-zones is that the CMA sub-zone only applies to the mainstem of the river. This means that the surrounding catchment area is still in the Water Management Sub-zone. Adding the exclusion of the mainstem within the CMA removed the CMA but kept the surrounding catchment within a Water Management Sub-zone
486.		113. “Cross-river CMA boundary” in various Tables – while the NZMS reference is included, should there be a cross-reference to Schedule H where the location is shown?	No, there is a map reference in the table which says where the zone stops.
487.		114. What is the correct spelling of Manganui o te Ao River (or at least the preferred spelling for the POP) - lower or upper case on “o” and “te”? (see eg. Tables Ba4 and Ba19 for three different versions)	These have been made consistent in the Track Changes version.
488.		115. Ba2.2.1 (page Ba54) – How does the heading “Sub-Zone-Wide Water Management Values” relate to the fold out key that identifies specified sites/reaches (as opposed to sub-zone-wide values)?	This has been removed in the Track Changes version.
489.		116. User Note (page Ba-54) – How helpful is this? What does it actually mean in relation to the rules or resource consent decision-making?	See Appendix A explanation of LSC. Decision-maker has to safeguard LSC and this needs to be done in a way that is appropriate to the location of the activity relating to its geology and topography.
490.		117. Table Ba.11 (page Ba-64) - Mangaore – part of the NZMS number seems to be missing?	These have been made consistent in the Track Changes version.
491.		118. Map Ba:12, heading of Table Ba12, fold-out guide (and Map Ba:13 and Table Ba.13 re Sites of Significance for Riparian Biodiversity) – Why is new wording suggested? While the POP as notified was not totally consistent, didn’t it primarily refer to “Sites of Significance – Aquatic”?	These have been made consistent in the Track Changes version.
492.		119. Table Ba.15	
493.		a. Ohau River - In light of the change from river mouth to Cross-river boundary, is the reference to 5km upstream still correct?	Yes, inanga spawn in the lower reaches of rivers as well as estuaries.

Q. No	Issue/ Subject	Question	Comment / Answer
494.		b. Lake Papaitonga – the change to the description of the reaches referred to in Ms Clark’s s42A report (page 65) does not seem to have occurred	These have been made consistent in the Track Changes version.
495.		120. Table Ba.18:	
496.		a. Same issue re Lake Papaitonga.	These have been made consistent in the Track Changes version.
497.		b. Whai 5_e and 5_f – is there an error in the NZMS references, which seem to be the same for both?	There is no error here they are less than 100 m away from each other.
498.		121. Map Ba:19 – Why is this so different from the POP as notified?	This has been explained in the scope table and all maps now have more definition. The maps have been changed to include all Order One and two streams that were defined in the tables but weren’t previously displayed on the map. Order 1 and 2 streams are often the source of a river or very small tributaries and therefore were not shown in the initial maps which were provided to be indicative of where the values applied however feedback about the maps indicated that showing order one and two streams would be more helpful.
499.		122. Values Key:	
500.		a. Page Ba-153 - why is there no footnote 1?	For this section Ba 2.2, there is a footnote 1 on page Ba-54 which will disappear as that footnote is only for the Hearing Panel.
501.		b. SOS-A and SOS-R – in the Management Objective, in light of section 6(c) referring to “indigenous” should “native” be “indigenous”?	The term ‘native’ has been changed to ‘indigenous’ in the key.
502.		c. IA and I:	
503.		i. In “Where it applies”, does NWCO have meaning in the context of this Plan under the RMA and is “zero allocation zone” terminology used in Schedule B?	Reference to NWCO has been removed from the Where it applies column. Zero allocation zone is not used in Schedule B as the allocation volume uses the numeral 0
504.		ii. Have the ticks in the relevant earlier tables been changed to reflect the zero allocation zone addition?	There are no ticks in sub-zones with zero allocation.
505.		d. EI:	
506.		i. In “Where it applies” is “in the general vicinity of” sufficiently clear?	Yes, because it depends on the type of infrastructure that is being protected. The restrictions that apply are specifically included in the relevant rules.

Q. No	Issue/ Subject	Question	Comment / Answer
507.		ii. Why is there reference both to “existing infrastructure” and “legally existing infrastructure”?	The Where it applies column has been changed to reflect the management objective.
508.		e. Page Ba-154 – In C), why is the Trout Fishery information here rather than with the TF material?	The purpose of the legend in C, page Ba-154, is to provide clarity to the Table Ba10 in relation to trout fishery classes and should be read in conjunction with this table.
509.	<b>Schedule D</b>	123. Isn't including reference to streams inappropriate, given the RMA definition of river?	The definition of 'river' does include streams but not all readers of the Plan will not be familiar with the RMA definition of river so including the word 'stream' adds clarity.
510.		124. User Guide:	
511.		a. Why is there reference to “natural” river waters?	The term 'natural' has been removed.
512.		b. The wording dealing with natural lakes does not seem to be accurate (also in Table D:4a). Table E.2 does not define a natural lake, does it?	Refer to Kate McArthur's S42A Table 12 bullet point 3, page 115. Reference to 'natural' has been removed from Schedule D.
513.		c. Water body is not appropriate terminology in relation to the CMA, is it?	These have been made consistent in the Track Changes version.
514.		125. When the results, and therefore the application of the Plan, can differ depending on sampling and measurement methods, is it not legally appropriate for enough detail to be provided in the Plan to make interpretation of the Plan clear (and not leave this to a separate document)? Has this been achieved?	The plan is not unclear as it has standards which are verifiable. Differences in sampling and measurement methods often arise in technical subjects and are resolved between experts based on a judgment of appropriate accuracy and margins of error and in rare cases where that is in debate by the Environment Court. Excessive particularity is not warranted.
515.		126. From a legal perspective:	
516.		a. How satisfactory is it to distinguish between deep and shallow lakes, based on the wording recommended (pages D-17 and D-18)?	Applying the McLeod approach the existence of a judgment is not fatal in the assessment and the distinction between the two is based on a verifiable threshold.
517.		b. How satisfactory is the wording of the ammoniacal nitrogen standard for lakes (page D-18)?	It seems to me that the standard has a definitive quantity for ammoniacal nitrogen in gm3.
518.		c. How satisfactory is the wording of the clarity in lakes provision, including the footnote (page D-18)?	For lakes the method used for clarity measurement is the same as rivers except there is a Secchi depth corresponding to the black disk horizontal range of 200m. The significance of this is referred to in the footnote. These appear to be technical metrics with wide acceptance and therefore uncontroversial.

Q. No	Issue/ Subject	Question	Comment / Answer
519.		127. Page D-18 – a number of the symbols in the Sub-header column do not seem to be precise, when compared with the wording of the provision	After careful consideration of this point we believe the detailed wording within the Standards Key provides adequate guidance to anyone undertaking analysis against the Plan standards. The symbols should be considered indicative only and are adequate for this purpose.
520.		a. For example, shouldn't a number of them (eg. temp, sCBOD5, POM, and others) be less than or equal to rather than only less than?	Refer to answer for Question 519 above.
521.		b. Is the clarity in rivers symbol correct?	Refer to answer for Question 519 above.
522.		c. Is the approach used for the E coli symbol in referring to m consistent with others (cf. sCBOD5 which refers to less than rather than the flow)?	Refer to answer for Question 519 above.
523.		d. Is QMCI accurate?	Yes.
524.	<b>Matters Raised at Hearing</b>	128. Ask Barry Biggs for comment on his article. Specifically the relevance of trout predation on macro invertebrate communities and hence periphyton in the Region and specifically for rivers in the target catchments. Want an outline of the scale or proportion of the problem of growth and trout predation.	Answer included in the End of Hearing technical report of Dr Biggs paragraphs 30-34.
525.		129. In relation to the Raparapawai what has been consented in terms of takes before the notification of the POP and what would be provided for through Schedule B. Assess how low flow conditions are dealt with. What are the number of days of restriction during low flow conditions - compare setting limits at Raparapawai vs Hopelands. Point to where the information is in the evidence.	See Appendix C for explanation.
526.		130. In relation to the evidence presented by Janita Stuart and the existence of a secondary stopbank - should only condition (f) of Rule 16-14 apply to this secondary stopbank and not the other performance conditions?	Careful consideration has been given as to how best address this issue. It is recommended that a new rule be inserted which is specifically tailored to the secondary stopbank.
527.		Section 14(3)(b). Legal opinion provided by Richard Gardner for Federated Farmers regarding the interpretation of the word "individual" and the meaning of the word is not limited to natural persons.	This issue is covered in detail in the end of hearing report.
528.		Rule 16-18 and other rules – strike out section 13 for artificial watercourses.	This rule has been reviewed and appropriate changes have been made.

Q. No	Issue/ Subject	Question	Comment / Answer
529.		Consider the following wording if recommending the proposed footnote in Schedule B for hydroelectricity takes: "the taking of water for other purposes should not derogate existing hydroelectricity takes". This needs to be considered in relation to the policies.	This matter has been considered in the End of Hearing report.
530.		Is the use of the words "minimised as far as practicable" sufficiently certain for a permitted activity rule?	I consider that the view expressed by Mr Green dated 24 February 2010 is sufficient and I agree with it.
531.		Is it ultra vires for a regional plan in a permitted activity rule to refer to a matter in a district plan eg. identifying archaeological sites?	The function of controlling discharges is not limited and therefore I consider that the protection of historic heritage can be a matter to address in performance conditions and I agree with Mr Green that it is not ultra vires even though the document changes as the protection is afforded a class of resource recognised in a statutory document.
532.		Does Rule 15-1 allocate water?	This matter has been considered in the End of Hearing report
533.		Confirm that the Compliance Team are part of a national approach to what is a significant non-compliance.	The Regional Council attended a meeting of Regional Councils and Fonterra where an agreed approach to what is a significant non-compliance was formulated. This is currently used by the Regional Council Compliance Team for assessment of consent compliance.
534.		Table 16.1 - consider whether "sites with" assists. Chapter 17 uses the term site and that term is now defined in the Te Ao Maori Chapter. Should it be changed to "applies to sites with a value"?	Table 16.1 has been reviewed and the wording changed to remove potential confusion.
535.		Rather than include Rule 13-1 for horticultural activities should the focus instead be on the rules associated with the discharge of fertiliser and bio-solids?	This matter has been dealt with in the End of Hearing Report.
536.		Provide copies of all local water conservation notices and the national order to the Panel.	Provided to the Panel on 4 March 2010.
537.		Rule 16-13 and the Code of Practice for River Works - is there a mismatch between the activities in the rule and those in the Code?	Yes, in some instances activities covered by the COP are not allowed for by Rule 16-13 but are listed as an activity within the COP. Where this 'gap' occurs, other rules in the plan should be relied upon, eg. Rule 16-17 for planting and removal of plants. Some of these issues have been resolved through redrafting of the rule while others simply do not have any scope. In all instances where there are gaps, other rules in the Plan are sufficient to cover the activity.

<b>Q. No</b>	<b>Issue/ Subject</b>	<b>Question</b>	<b>Comment / Answer</b>
538.		Rule 16-13(a) - there is no reference to removing or demolishing structures. Should there be?	No. As long as the conditions are complied with Rule 16-7 adequately allows for this activity.
539.		Table 16.1 - has the focus of this table changed, ie. the requirements are not that the activity is done in as short a period as possible.	Changes are recommended in the Track Changes version to address this matter.
540.		Look at paragraph 49 of Julian Watt's evidence and address the issues raised.	Responses to the evidence raised by the Department of Conservation's experts, Julian Watts and Logan Brown, can be found in the appendix titled "Appendix E".