Introduction
The Otago Regional Council (ORC) makes these comments on the revised proposal.

ORC opposes the revised proposal.

The proposed National Environmental Standard (NES) sets a standard in terms of water quality which is counter to the direction being taken to implement the NPS for Freshwater Management.

The proposed NES is the wrong tool for managing an activity based issue as it will alter the permitted baseline, lacks certainty and will continue to result in duplication of RMA processes.

Inappropriate Mechanism
ORC is still of the opinion that the proposed NES is fundamentally flawed as a tool for managing an individual land use type, such as plantation forestry.

The proposed standards and conditions for the NES are overly complex and un-administrable.

The proposal will continue to result in duplication of functions between regional and territorial authorities, resulting in both time and financial costs.

Activity versus Effects Based
The use of an NES as a tool to manage activity based issues is an inappropriate use of the effects and activity-neutral basis of the Resource Management Act 1991.

The proposed NES places consenting responsibilities on the ORC by presuming that all regional plans contain land use controls in regard to plantation forestry. However in Otago, land use is dealt with by territorial authorities.

ORC considers that the activity based nature and level of detail of the proposed NES would be more appropriately incorporated into a best practice guidance document.
Permitted Baseline, Duplication and Certainty
The proposed NES creates a new permitted baseline. The consequence of this permitted baseline is fundamental and has not been addressed.

An appropriate test to apply would be to replace ‘forestry’ with another activity such as ‘dairy’, and expect the level of national consistency to be a realistic control. ORC considers that it does not meet this test.

The recommended changes do not address ORCs concerns particularly in regards to certainty, as the permitted activity conditions are inconsistent and mostly ultra vires for lack of certainty.

Conclusion
The proposed NES is an inappropriate mechanism as the proposal is activity based rather than effects based.

The revised proposal does not address the fundamental issues of the proposed NES and actually increases the issues that will arise, including duplication of process, application of the permitted baseline and lack of certainty.

The proposed standard fails to achieve many of the principles that underpin sound resource management, and as such the ORC requests that the proposed NES be withdrawn.