

BEFORE THE ENVIRONMENT COURT

IN THE MATTER of the Resource Management Act 1991

AND of an appeal under clause 14 of the First Schedule of the Act

BETWEEN OCEANA GOLD (NEW ZEALAND) LIMITED  
(ENV-2015-CHC-7)  
Appellant

AND OTAGO REGIONAL COUNCIL  
Respondent

Environment Judge J R Jackson sitting alone pursuant to section 279 of the Act  
In Chambers at Christchurch

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CONSENT ORDER

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[A] Under section 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

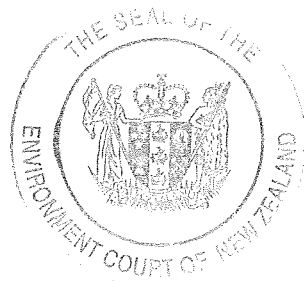
- (1) the appeal is allowed to the extent that the Otago Regional Council is directed to amend Plan Change 4B to the Regional Plan: Water for Otago as set out in Schedule 1, attached to and forming part of this order;
- (2) the appeal is otherwise dismissed.

[B] Under section 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

**Introduction**

[1] This proceeding concerns an appeal by Oceana Gold (New Zealand) Limited against the decisions of the Otago Regional Council on proposed Plan Change 4B (Groundwater Allocation) to the Regional Plan: Water for Otago.



[2] The court has now read and considered the consent memorandum of the parties dated 19 June 2015, which proposes to resolve the appeal.

### **Other relevant matters**

[3] Contact Energy Limited, Mintago Investments Limited and L & M Coal Kaitangata Limited had given notice of their intention to become parties under section 274 of the Resource Management Act 1991 (“the RMA”) and have signed the memorandum setting out the relief sought.

### **Orders**

[4] The court is making this order under section 279(1)(b) of the RMA, that is the order is made by consent and is not a decision or determination on the merits pursuant to section 290. The court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the court’s endorsement fall within the court’s jurisdiction, and achieves the relevant requirements and the purpose of the RMA including, in particular, Part 2;
- (c) all parties are satisfied that all matters proposed for the court’s endorsement give effect to the National Policy Statement on Freshwater Management 2014.

DATED at Christchurch 23 June 2015

  
\_\_\_\_\_  
**J R Jackson**  
**Environment Judge**



Issued: 24 JUN 2015  
2015-chc-7 oceana goldv orc consent order

## Proposed Plan Change 4B (Groundwater allocation)

# Regional Plan: Water for Otago

Incorporating Decisions of Council  
*APPEAL RESOLUTION VERSION*

*Note: Changes shown in this document compare all recommended changes to the Operative Water Plan, with additions underlined and deletions ~~struckout~~. Agreed amendments are in yellow highlighter and double-underlined.*

ISBN 978-0-478-37697-5

10 June 2015



Otago  
Regional  
Council



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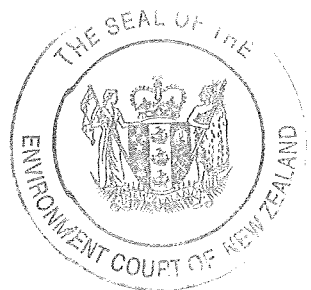
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\* Regional Plan: Water for Otago operative as at 1 May 2014.



# 6

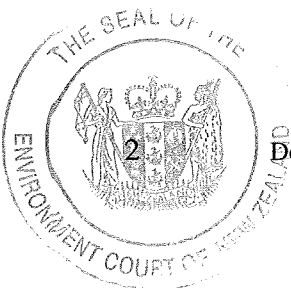
## Water Quantity



## WATER QUANTITY

6.1 to 6.3 [*Unchanged*]**6.4 Policies applying to the management of the taking of water**6.4.0 to 6.4.10 [*Unchanged*]**Groundwater Takes****6.4.10A To enable the taking of groundwater by:**

- (a) ~~In each aquifer other than any in Schedule 2C or within 100 metres of a connected perennial surface water body, defining a quantity known as the maximum allocation volume, which is:~~
- (i) ~~For aquifers in Schedule 4A, the greater of:~~
- ~~(1) A limit specified as the maximum allocation volume in Schedule 4A; or~~
  - ~~(2) The sum of assessed maximum annual take for that aquifer at 10 April 2010, less any quantity in a consent where:~~
    - ~~(A) All of the water taken is immediately returned to the aquifer or connected surface water body;~~
    - ~~(B) The consent has been surrendered or has expired (except where the quantity has been granted to the existing consent holder as a new consent);~~
    - ~~(C) The consent has been cancelled (except where the quantity has been transferred to a new consent under Section 136(5));~~
    - ~~(D) The consent has lapsed;~~
- (ii) ~~For aquifers other than those in Schedule 4A, the greater of:~~
- ~~(1) A limit which is 50% of the calculated mean annual recharge; or,~~
  - ~~(2) The sum of consented maximum annual take for that aquifer at 10 April 2010, less any quantity in a consent where:~~
    - ~~(A) All of the water taken is immediately returned to the aquifer or connected surface water body;~~
    - ~~(B) The consent has been surrendered or has expired (except where the quantity has been granted to the existing consent holder as a new consent);~~
    - ~~(C) The consent has been cancelled (except where the quantity has been transferred to a new consent under Section 136(5));~~
    - ~~(D) The consent has lapsed; and~~



- ~~(b) In an aquifer other than any in Schedule 2C or within 100 metres of a connected perennial surface water body, applying aquifer restriction levels where specified in Schedule 4B; and~~
- ~~(c) In any aquifer, avoiding contamination of groundwater or surface water; and~~
- ~~(d) In any aquifer, avoiding permanent aquifer compaction.~~

#### **Explanation**

~~Policy 6.4.1A(a) and (b) provide for the management of connected groundwater as if it were surface water. All water allocated as groundwater in terms of Policy 6.4.1A(c) or (d) needs to be managed for the protection of aquifers and the maintenance of any long term outflows. The outflows from any aquifer need to be maintained to prevent long term depletion of base flow to surface water bodies and prevent seawater intrusion.~~

~~Sustainable allocation of groundwater will be achieved by considering as restricted discretionary activities, those applications where:~~

- ~~(i) The individual take would not cause the cumulative take from the aquifer to exceed 50% of the mean annual recharge of the aquifer, or the maximum allocation volume listed in Schedule 4A, unless that take was the subject of a resource consent granted before 10 April 2010; and~~
- ~~(ii) Relevant aquifer restriction levels are met; and~~
- ~~(iii) Aquifer contamination or compaction will be avoided.~~

~~For some aquifers identified in Maps C1–C17, maximum allocation volumes are specified in Schedule 4A, where there is sufficient information to set them. Maximum allocation volumes are appropriate for managing the cumulative effects of groundwater takes on long term storage of an aquifer and on outflows to surface water bodies. Matters that will be considered when setting maximum allocation volumes are given in Schedule 4C.1. Significant drawdown effects are addressed under (b) of this policy.~~

~~Allocation is available when the assessed maximum annual take is below the limits specified in (a)(i)(1) or (a)(ii)(1) of this policy. Where the assessed maximum annual take reduces below those limits, through surrender, lapse, cancellation or non-replacement on expiry of existing consents, new quantities may be granted. The assessed maximum annual take is calculated using the process outlined in Method 15.8.3.1.~~

~~When an existing consent holder applies for a new consent for the same activity, and is able to continue to lawfully exercise the consent under Section 124, that quantity of water retains its status within maximum allocation volume and may be granted to the new consent. Only where the application is approved does the quantity remain within maximum allocation volume.~~

~~Note that where the quantity from an existing consent within maximum allocation volume is transferred to a new consent, calculation of the maximum allocation volume in (a)(i)(2) and (a)(ii)(2) of this policy is based on the quantity specified in the new consent.~~

~~When the aquifer levels specified in Schedule 4B are reached, the actual taking of water will be restricted as provided for in the Schedule. Restrictions will~~



~~apply to all consents to take groundwater under Policy 6.4.1A(c) or (d), including those for community water supply specified in Schedule 3B, as well as permitted taking in accordance with Rule 12.2.2.2. Maps D1-D4 show the Schedule 4B aquifers to which the restrictions apply.~~

~~When considering the taking of any groundwater, the adverse effects identified in (c) and (d) of this policy must be avoided.~~

**~~Principal reasons for adopting~~**

~~This policy is adopted to ensure that potentially long term or irreversible adverse effects on aquifer properties resulting from taking groundwater are avoided. It is important to achieve this outcome in order to provide for the needs of Otago's present and future generations.~~

~~This policy also maintains levels and pressures within identified aquifers. This will assist in achieving the environmental results detailed in Schedule 4B, by avoiding significant reductions.~~

~~This policy allows for sustainable taking of groundwater from aquifers, where the take will not have a direct effect on any surface water body, while avoiding adverse effects, including in particular the matters listed in Policies 5.4.2 and 5.4.3. Allocating no more than the limits in the policy ensures the remaining groundwater provides for adequate levels of system outflow.~~

**~~6.4.10AA Where an application is received to take groundwater within the maximum allocation volume and Policy 6.4.10A(a)(i)(2) or (a)(ii)(2) applies to the aquifer, to grant no more water than has been taken under the existing consent, except in the case of a registered community drinking water supply where an allowance may be made for growth that is reasonably anticipated.~~**

**~~Explanation~~**

~~This policy intends that in aquifers where water is only available from within the maximum allocation volume under a new consent for the same activity for which an existing consent is held, only water actually taken under that existing resource consent will be considered for the new consent.~~

~~In the new consent, a consent holder may benefit from using water actually taken in the past more efficiently.~~

~~A registered community drinking water supply, in terms of this Policy, is a drinking water supply serving a community of more than 25 people for more than 60 days a year. In the case of such supplies, consent may be granted for more water than has been taken under the existing consent where there is evidence that growth is reasonably anticipated.~~

~~In all cases, the effect of seasonal extremes will be considered.~~

~~Evidence of the rate, volume, timing and frequency of water taken under the existing consent is required, such as metering or measuring data. Where there is limited or no such data available, any relevant supporting evidence may be presented, for example a description of existing circumstances and use.~~





Infrastructure present or photography showing irrigated land may also indicate how much water has been taken and when.

**Principal reasons for adopting**

This policy is adopted to assist in the reduction of the maximum allocation volume under Policies 6.4.10A(a)(i)(2) or 6.4.10A(a)(ii)(2) to reflect the amount of water actually being taken. This policy also intends that the taking of groundwater is not constrained by resource consent holders who are underutilising the groundwater allocated to them, improving efficiency of water resource use.

**6.4.10A1 Enable the taking of water allocated as groundwater by Policy 6.4.1A, by:**

- (a) Determining the volume available for taking as the maximum allocation limit less the assessed maximum annual take for an aquifer calculated using Method 15.8.3.1; and**
- (b) Applying aquifer restriction levels where specified in Schedule 4B.**

**6.4.10A2 Define the maximum allocation limit for an aquifer as:**

- (a) That specified in Schedule 4A; or**
- (b) For aquifers not in Schedule 4A, 50% of the mean annual recharge calculated under Schedule 4D.**

**6.4.10A3 For any aquifer, avoid allocating beyond the maximum allocation limit, unless the water:**

- (a) Is for a non-consumptive take; or**
- (b) Has been previously taken under a resource consent; or**
- (c) Is for a new, consumptive take of a temporary nature that is necessary for construction or repair of a structure; or**
- (d) Is in a rock formation having an average hydraulic conductivity of less than  $1 \times 10^{-5}$  metres per second, which is not an aquifer mapped in the C-series of this Plan, and is taken in connection with mineral extraction activities.**

**6.4.10A4 Where an application is received to take groundwater by a person who already holds a resource consent to take that water, grant no more water than has been taken under the existing consent, in at least the preceding five years, when:**

- (a) The take is from an aquifer where the assessed maximum annual take exceeds its maximum allocation limit; or**
- (b) The take results in the assessed maximum annual take of an aquifer exceeding its maximum allocation limit,**

**except in the case of a registered community drinking water supply where an allowance may be made for growth that is reasonably anticipated.**

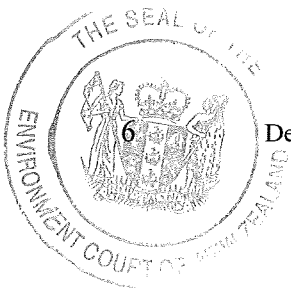


## WATER QUANTITY

**6.4.10A5 In managing the taking of groundwater, avoid in any aquifer:**

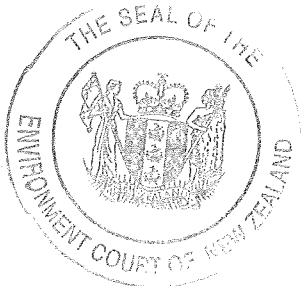
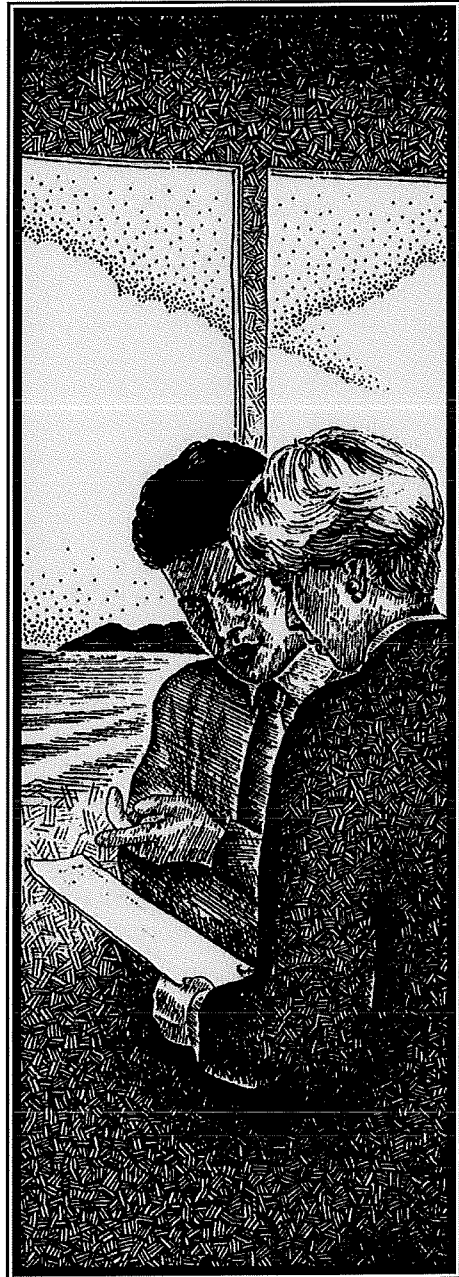
- (a) Contamination of groundwater or surface water; and**
- (b) Permanent aquifer compaction.**

6.4.10AB to 6.7.8 *[Unchanged]*



# 12

## Rules: Water Take, Use and Management



## 12.0 Applications for taking water

### 12.0.1 Prohibited activity: No resource consent will be granted

12.0.1.1 *[unchanged]*

12.0.1.2 *[unchanged]*

12.0.1.3 ~~An~~ The application to take groundwater for a consumptive use within the maximum allocation volume in an aquifer where Policy 6.4.10A(a)(i)(2) or (a)(ii)(2) applies, by a person who does not hold the existing resource consent to take that water, from an aquifer identified in Schedule 4A, where the assessed maximum annual take:

- (i) Exceeds the aquifer's maximum allocation limit; or
- (ii) Would exceed the aquifer's maximum allocation limit as a result of this take,

is a *prohibited* activity, unless all of the water taken:

- (1) Is allocated as surface water under Policy 6.4.1A; or
- (2) Is taken for temporary dewatering at a site for construction or repair of a structure.

12.0.1.4 ~~An application to take groundwater within the maximum allocation volume, where that take would cause the maximum allocation volume of an aquifer to exceed the limits in Policy 6.4.10A(a)(i)(1) or (a)(ii)(1), is a *prohibited* activity.~~

*The Otago Regional Council will use its website [www.orc.govt.nz](http://www.orc.govt.nz) to notify an up-to-date allocation status for aquifers, showing how current allocation compares to the scheduled or default maximum allocation limit (MAL) and will, upon request, advise the applicant of the aquifer's current allocation status before any application is made.*

#### **Principal reasons for adopting**

~~These rules are adopted to expressly prohibit more water being allocated as primary allocation, or for groundwater within the maximum allocation volume, when the allocation already exceeds or would exceed the catchment or aquifer limit. Sections 124A-C of the Act cannot apply where no application can be received. Any further taking of surface water or connected groundwater must be from supplementary or further supplementary allocation, in order to assist in maintaining the aquatic ecosystem and natural character of source water bodies. The taking of groundwater beyond maximum allocation volumes is considered only where that take is immediately returned to the aquifer or connected surface water body.~~

12.1 to 12.2.1A.2 *[unchanged]*

12.2.1A.3 The taking of groundwater for a consumptive use by a person who does not hold the existing resource consent to take that water, from



## R U L E S : W A T E R T A K E , U S E A N D M A N A G E M E N T

an aquifer not identified in Schedule 4A, where the assessed maximum annual take:

- (i) Exceeds the aquifer's maximum allocation limit; or
- (ii) Would exceed the aquifer's maximum allocation limit as a result of this take,

is a *non-complying* activity, unless all of the water taken:

- (1) Is allocated as surface water under Policy 6.4.1A; or
- (2) Is taken for temporary dewatering at a site for construction or repair of a structure; or
- (3) Is taken from a rock formation having an average hydraulic conductivity of less than  $1 \times 10^{-5}$  metres per second, which is not an aquifer mapped in the C-series of this Plan, and is taken in connection with mineral extraction activities.

*The Otago Regional Council will use its website [www.orc.govt.nz](http://www.orc.govt.nz) to notify an up-to-date allocation status for aquifers, showing how current allocation compares to the scheduled or default maximum allocation limit (MAL) and will, upon request, advise the applicant of the aquifer's current allocation status before any application is made.*

12.2.2 to 12.2.3.1A [unchanged]

12.2.3.2A Except as provided for by 12.0.1.3, 12.2.1A.3 and 12.2.3.1A, the taking and use of groundwater is a *restricted discretionary* activity, if:

- (a) The volume sought is within:
  - (i) The maximum allocation ~~volume~~ limit identified in Schedule 4A; or
  - (ii) 50% of the ~~calculated~~ mean annual recharge calculated under Schedule 4D, for any aquifer not ~~specified~~ identified in Schedule 4A; or
  - (iii) That volume ~~specified on~~ in an existing resource consent ~~granted before 10 April 2010, or the take applied for is a volume equal to or less than that on the existing consent where the assessed maximum annual take of the aquifer exceeds its maximum allocation limit; and~~
- (b) It is subject to any aquifer restriction levels identified in Schedule 4B; and
- (c) Where the rate of surface water depletion is greater than 5 l/s, as calculated using Schedule 5A:
  - (i) Primary surface water allocation is available; and
  - (ii) For the Waitaki catchment, allocation to activities set out in Table 12.1.4.2 is available.



## R U L E S : W A T E R T A K E , U S E A N D M A N A G E M E N T

The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.2.3.4.

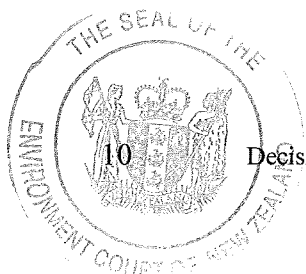
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## 12.2.3.4 Restricted discretionary activity considerations

In considering any resource consent for the taking and use of groundwater in terms of Rule 12.2.3.2A, the Otago Regional Council will restrict the exercise of its discretion to the following:

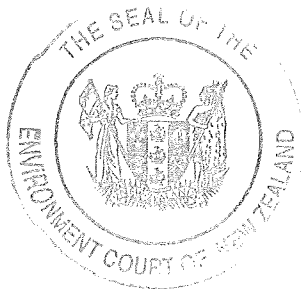
- (i) The maximum allocation ~~volume~~ limit for the aquifer; and
- (iA) The assessed maximum annual take for the aquifer; and
- (ii) The mean annual recharge of ~~that~~ the aquifer; and
- (iii) The effect of the take on the hydrodynamic properties of the aquifer and the vulnerability of the aquifer to compaction; and

...



# 15

## Methods other than Rules



## METHODS OTHER THAN RULES

15.1 to 15.8.2.2 [unchanged]

**15.8.3 Methodology for calculating assessed maximum annual take for groundwater**

15.8.3.1 The assessed maximum annual take of groundwater from any aquifer for the purposes of Policy 6.4.10A1(a), will be the sum of:

- (a) The annual volume specified on consents to take groundwater from that aquifer; and
- (b) Where a consent does not specify an annual volume, it is calculated using the instantaneous, daily, weekly or monthly limits specified as shown below:

(i) ~~Except as provided for by (iii) below, w~~Where the purpose of use includes irrigation, convert the consent limit as follows:

(1) Where a daily or a monthly limit is specified:

Consent Limit	Purpose of use irrigation
Daily	Multiply by 90
Monthly	Multiply by 6

Note: A 90 day limit is equivalent to irrigating 150 days at 60% of the maximum take rate. A 6 month limit is representative of an annual irrigation season.

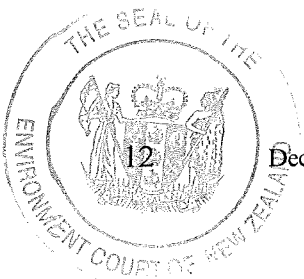
Where both limits are specified, use the limit which yields the smaller volume.

(2) Where no daily or monthly limit is specified:

Consent Limit	Purpose of use irrigation
Instantaneous (e.g. litres/second or m <sup>3</sup> /hour)	Convert to a daily volume assuming taking of 12 hours per day, and then multiply by 90.
Weekly	Convert to a monthly volume, by multiplying by 4.3, and then multiplying by 6.

Where both limits are specified, use the limit which yields the smaller volume.

(3) If a consent specifically restricts taking over different periods, use the quantity and time limits specified on the consent.





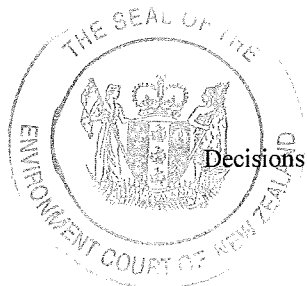
## METHODS OTHER THAN RULES

- (ii) Where the only purpose of use is frost-fighting, convert any consent limit to a 20 day volume.
- (iii) Except as provided for by (i) and (ii), convert the consent limit to a 12-month volume.
- (c) less any quantity specified in a consent as non-consumptive where all of the water taken is immediately returned to the aquifer or connected surface water body.

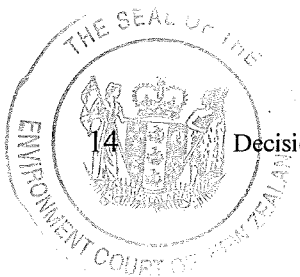
The assessed maximum annual take sums only those consents allocated as groundwater under Policy 6.4.1A(c) and (d).

**Principal reasons for adopting**

This method is adopted to assess the annual volume of take from an aquifer, and so assist in determining the remaining allocation available from an aquifer.

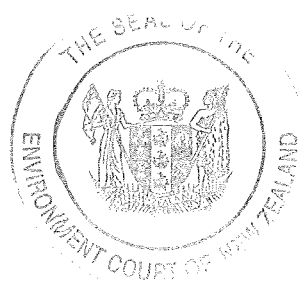
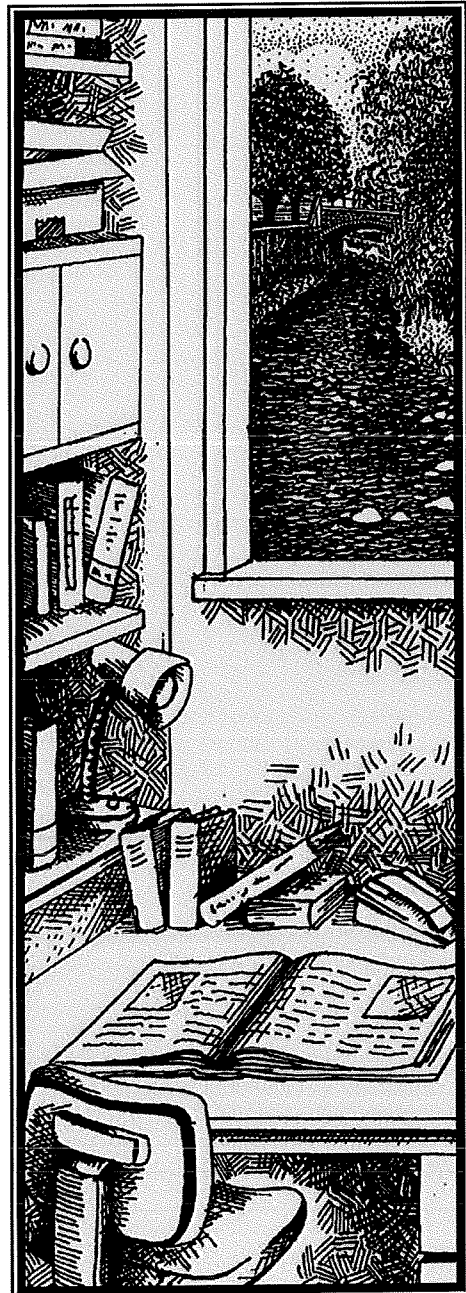


METHODS OTHER THAN RULES



# 20

## Schedules



## SCHEDULES

**4. Schedule of specified restrictions on the exercise of permits to take the allocation and restriction regime for groundwater**

4A to 4C [unchanged]

**4D Matters to be considered in calculating mean annual recharge**

For any aquifer not included in Schedule 4A the setting of the maximum allocation limit will involve calculating the mean annual recharge of the aquifer (see Policy 6.4.10.A2(b)). The mean annual recharge is a statistical value based on the past climate, aquifer hydrology, soil properties, irrigation practice and other factors with direct influence over groundwater recharge.

This schedule sets out the matters to which consideration will be given when calculating the mean annual recharge of an aquifer.

**4D.1 Sources of aquifer recharge**

Sources of aquifer recharge may include:

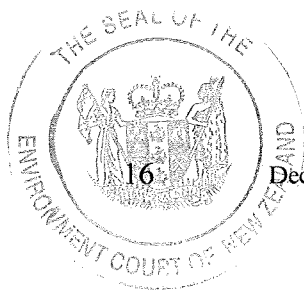
- (a) Land surface recharge due to rainfall excess.
- (b) Land surface recharge due to irrigation excess, which should be based on the application of irrigation at an efficient rate.
- (c) Land surface recharge due to intermittent runoff flowing over the land surface.
- (d) Surface water recharge due to river infiltration.
- (e) Surface water recharge due to wetland, pond or lake infiltration.
- (f) Through-flow from any other aquifer.

The mean annual recharge can arise from a single recharge source or a combination of recharge sources, in which case the mean annual recharge is based on the combined recharge from all relevant sources.

**4D.2 Methods for calculating aquifer recharge**

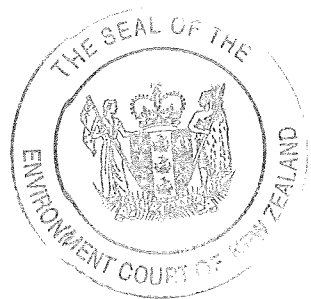
Methods for calculating aquifer recharge from various recharge sources may include:

- (a) Daily soil moisture balance for the calculation of land surface recharge.
- (b) Daily soil moisture balance for calculation of irrigation recharge.
- (c) Differences between surface water flows measured at different flow monitoring sites for the determination of bed infiltration passing to an aquifer.
- (d) Direct measurement of land surface recharge using subsoil measuring devices such as lysimeters.
- (e) Calibrated recharge estimation using unsaturated zone matric potential or saturated zone water table height fluctuation.
- (f) Environmental tracers such as isotopes (radioactive or stable) and conservative anions.
- (g) Groundwater computer modelling, especially where calibration and parameter estimation can be used to constrain initial estimates of surface water contributions and land surface recharge.



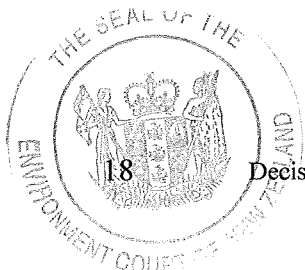
# 21

## Glossary



## GLOSSARY

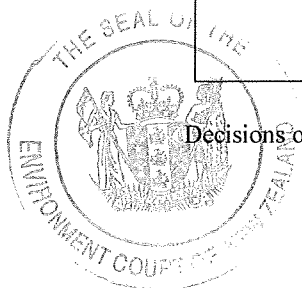
<b>Allocation limit <del>or allocation volume</del></b>	The maximum flow or quantity of water in a water body, which is able to be allocated to resource consents for taking.
<b><u>Assessed maximum annual take</u></b>	<u>The sum of the takes of groundwater as calculated by Method 15.8.3.1.</u>
<b><u>Maximum allocation limit</u></b>	<u>The quantity of groundwater as established under Policy 6.4.10A2.</u>
<b><u>Mean annual recharge</u></b>	<u>The quantity of groundwater recharge as calculated by Schedule 4D.</u>
<b><u>Non-consumptive take</u><sup>+</sup></b>	<p>A take is non-consumptive when:</p> <ol style="list-style-type: none"> <li>(1) <u>The same amount of water is returned to the same water body at or near the location from which it was taken; and</u></li> <li>(2) <u>There is no significant delay between the taking and the returning of the water.</u></li> </ol> <p><sup>+</sup> <u>as defined in the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010</u></p>
<b><u>Registered community drinking water supply</u></b>	<u>A drinking water supply, which is registered under Section 69J of the Health Act and serves a community of more than 25 people for more than 60 days a year.</u>



## MINOR AND CONSEQUENTIAL CHANGES

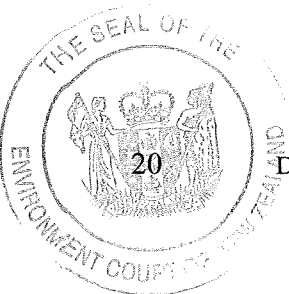
Table of minor and consequential changes

Plan Provision	Detail of proposed change								
Page numbers	Update page numbers.								
Footers	Change footer to read “ <u>Regional Plan: Water for Otago (Updated to &lt;date to be inserted&gt;)</u> ”.								
Title page	Change the date to read “ <u>Updated to &lt;date to be inserted&gt;</u> ”.								
ISBN number	Obtain new ISBN numbers for Regional Plan: Water for Otago.								
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## MINOR AND CONSEQUENTIAL CHANGES

Index to policies in 6.4; References to policies in Schedules and in map index pages	Make consequential amendments to Policy numbers in Plan and map references														
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**Plan Change 4B  
(Groundwater allocation)**

**Regional  
Plan: Water  
for Otago**

*Operative version*

**ISBN 978-0-908324-14-9**

1 September 2015



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\* Regional Plan: Water for Otago operative as at 1 May 2014.

# 6

## Water Quantity



6.1 to 6.3 *[Unchanged]*

## **6.4 Policies applying to the management of the taking of water**

6.4.0 to 6.4.10 *[Unchanged]*

### **Groundwater Takes**

**6.4.10A1 Enable the taking of water allocated as groundwater by Policy 6.4.1A, by:**

- (a) **Determining the volume available for taking as the maximum allocation limit less the assessed maximum annual take for an aquifer calculated using Method 15.8.3.1; and**
- (b) **Applying aquifer restrictions where specified in Schedule 4B.**

**6.4.10A2 Define the maximum allocation limit for an aquifer as:**

- (a) **That specified in Schedule 4A; or**
- (b) **For aquifers not in Schedule 4A, 50% of the mean annual recharge calculated under Schedule 4D.**

**6.4.10A3 For any aquifer, avoid allocating beyond the maximum allocation limit, unless the water:**

- (a) **Is for a non-consumptive take; or**
- (b) **Has been previously taken under a resource consent; or**
- (c) **Is for a new, consumptive take of a temporary nature that is necessary for construction or repair of a structure; or**
- (d) **Is in a rock formation having an average hydraulic conductivity of less than  $1 \times 10^{-5}$  metres per second, which is not an aquifer mapped in the C-series of this Plan, and is taken in connection with mineral extraction activities.**

**6.4.10A4 Where an application is received to take groundwater by a person who already holds a resource consent to take that water, grant no more water than has been taken under the existing consent, in at least the preceding five years, when:**

- (a) **The take is from an aquifer where the assessed maximum annual take exceeds its maximum allocation limit; or**
- (b) **The take results in the assessed maximum annual take of an aquifer exceeding its maximum allocation limit,**

**except in the case of a registered community drinking water supply where an allowance may be made for growth that is reasonably anticipated.**

**6.4.10A5 In managing the taking of groundwater, avoid in any aquifer:**

- (a) **Contamination of groundwater or surface water; and**
- (b) **Permanent aquifer compaction.**

6.4.10AB to 6.7.8 *[Unchanged]*



# 12

## Rules: Water Take, Use and Management



## 12.0 Applications for taking water

### 12.0.1 Prohibited activity: No resource consent will be granted

12.0.1.1 *[unchanged]*

12.0.1.2 *[unchanged]*

12.0.1.3 The application to take groundwater for a consumptive use by a person who does not hold the existing resource consent to take that water, from an aquifer identified in Schedule 4A, where the assessed maximum annual take:

- (i) Exceeds the aquifer's maximum allocation limit; or
- (ii) Would exceed the aquifer's maximum allocation limit as a result of this take,

is a **prohibited** activity, unless all of the water taken:

- (1) Is allocated as surface water under Policy 6.4.1A; or
- (2) Is taken for temporary dewatering at a site for construction or repair of a structure.

*The Otago Regional Council will use its website [www.orc.govt.nz](http://www.orc.govt.nz) to notify an up-to-date allocation status for aquifers, showing how current allocation compares to the scheduled or default maximum allocation limit (MAL) and will, upon request, advise the applicant of the aquifer's current allocation status before any application is made.*

12.1 to 12.2.1A.2 *[unchanged]*

12.2.1A.3 The taking of groundwater for a consumptive use by a person who does not hold the existing resource consent to take that water, from an aquifer not identified in Schedule 4A, where the assessed maximum annual take:

- (i) Exceeds the aquifer's maximum allocation limit; or
- (ii) Would exceed the aquifer's maximum allocation limit as a result of this take,

is a **non-complying** activity, unless all of the water taken:

- (1) Is allocated as surface water under Policy 6.4.1A; or
- (2) Is taken for temporary dewatering at a site for construction or repair of a structure; or
- (3) Is taken from a rock formation having an average hydraulic conductivity of less than  $1 \times 10^{-5}$  metres per second, which is not an aquifer mapped in the C-series of this Plan, and is taken in connection with mineral extraction activities.

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12.2.2 to 12.2.3.1A [unchanged]

12.2.3.2A Except as provided for by 12.0.1.3, 12.2.1A.3 and 12.2.3.1A, the taking and use of groundwater is a **restricted discretionary** activity, if:

- (a) The volume sought is within:
  - (i) The maximum allocation limit identified in Schedule 4A; or
  - (ii) 50% of the mean annual recharge calculated under Schedule 4D, for any aquifer not identified in Schedule 4A; or
  - (iii) That volume specified in an existing resource consent where the assessed maximum annual take of the aquifer exceeds its maximum allocation limit; and
- (b) It is subject to any aquifer restriction identified in Schedule 4B; and
- (c) Where the rate of surface water depletion is greater than 5 l/s, as calculated using Schedule 5A:
  - (i) Primary surface water allocation is available; and
  - (ii) For the Waitaki catchment, allocation to activities set out in Table 12.1.4.2 is available.

The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.2.3.4.

...

12.2.3.4 Restricted discretionary activity considerations

In considering any resource consent for the taking and use of groundwater in terms of Rule 12.2.3.2A, the Otago Regional Council will restrict the exercise of its discretion to the following:

- (i) The maximum allocation limit for the aquifer; and
- (iA) The assessed maximum annual take for the aquifer; and
- (ii) The mean annual recharge of the aquifer; and
- (iii) The effect of the take on the hydrodynamic properties of the aquifer and the vulnerability of the aquifer to compaction; and

...



# 15

## Methods other than Rules



15.1 to 15.8.2.2 [unchanged]

### 15.8.3 Methodology for calculating assessed maximum annual take for groundwater

15.8.3.1 The assessed maximum annual take of groundwater from any aquifer for the purposes of Policy 6.4.10A1(a), will be the sum of:

- (a) The annual volume specified on consents to take groundwater from that aquifer; and
- (b) Where a consent does not specify an annual volume, it is calculated using the instantaneous, daily, weekly or monthly limits specified as shown below:
  - (i) Where the purpose of use includes irrigation, convert the consent limit as follows:

(1) Where a daily or a monthly limit is specified:

Consent Limit	Purpose of use irrigation
Daily	Multiply by 90
Monthly	Multiply by 6

Note: A 90 day limit is equivalent to irrigating 150 days at 60% of the maximum take rate. A 6 month limit is representative of an annual irrigation season.

Where both limits are specified, use the limit which yields the smaller volume.

(2) Where no daily or monthly limit is specified:

Consent Limit	Purpose of use irrigation
Instantaneous (e.g. litres/second or m <sup>3</sup> /hour)	Convert to a daily volume assuming taking of 12 hours per day, and then multiply by 90.
Weekly	Convert to a monthly volume, by multiplying by 4.3, and then multiplying by 6.

Where both limits are specified, use the limit which yields the smaller volume.

(3) If a consent specifically restricts taking over different periods, use the quantity and time limits specified on the consent.

- (ii) Where the only purpose of use is frost-fighting, convert any consent limit to a 20 day volume.

- (iii) Except as provided for by (i) and (ii), convert the consent limit to a 12-month volume.
- (c) less any quantity specified in a consent as non-consumptive

The assessed maximum annual take sums only those consents allocated as groundwater under Policy 6.4.1A(c) and (d).

**Principal reasons for adopting**

This method is adopted to assess the annual volume of take from an aquifer, and so assist in determining the remaining allocation available from an aquifer.



# 20

## Schedules



#### 4. Schedule of the allocation and restriction regime for groundwater

4A to 4C *[unchanged]*

#### 4D Matters to be considered in calculating mean annual recharge

For any aquifer not included in Schedule 4A the setting of the maximum allocation limit will involve calculating the mean annual recharge of the aquifer (see Policy 6.4.10.A2(b)). The mean annual recharge is a statistical value based on the past climate, aquifer hydrology, soil properties, irrigation practice and other factors with direct influence over groundwater recharge.

This schedule sets out the matters to which consideration will be given when calculating the mean annual recharge of an aquifer.

##### 4D.1 Sources of aquifer recharge

Sources of aquifer recharge may include:

- (a) Land surface recharge due to rainfall excess.
- (b) Land surface recharge due to irrigation excess, which should be based on the application of irrigation at an efficient rate.
- (c) Land surface recharge due to intermittent runoff flowing over the land surface.
- (d) Surface water recharge due to river infiltration.
- (e) Surface water recharge due to wetland, pond or lake infiltration.
- (f) Through-flow from any other aquifer.

The mean annual recharge can arise from a single recharge source or a combination of recharge sources, in which case the mean annual recharge is based on the combined recharge from all relevant sources.

##### 4D.2 Methods for calculating aquifer recharge

Methods for calculating aquifer recharge from various recharge sources may include:

- (a) Daily soil moisture balance for the calculation of land surface recharge.
- (b) Daily soil moisture balance for calculation of irrigation recharge.
- (c) Differences between surface water flows measured at different flow monitoring sites for the determination of bed infiltration passing to an aquifer.
- (d) Direct measurement of land surface recharge using subsoil measuring devices such as lysimeters.
- (e) Calibrated recharge estimation using unsaturated zone matric potential or saturated zone water table height fluctuation.
- (f) Environmental tracers such as isotopes (radioactive or stable) and conservative anions.
- (g) Groundwater computer modelling, especially where calibration and parameter estimation can be used to constrain initial estimates of surface water contributions and land surface recharge.



# 21

## Glossary

<b>Allocation limit</b>	The maximum flow or quantity of water in a water body, which is able to be allocated to resource consents for taking.
<b>Assessed maximum annual take</b>	The sum of the takes of groundwater as calculated by Method 15.8.3.1.
<b>Maximum allocation limit</b>	The quantity of groundwater as established under Policy 6.4.10A2.
<b>Mean annual recharge</b>	The quantity of groundwater recharge as calculated by Schedule 4D.
<b>Non-consumptive take<sup>+</sup></b>	<p>A take is non-consumptive when:</p> <p>(1) The same amount of water is returned to the same water body at or near the location from which it was taken; and</p> <p>(2) There is no significant delay between the taking and the returning of the water.</p>
	<sup>+</sup> as defined in the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010
<b>Registered community drinking water supply</b>	A drinking water supply, which is registered under Section 69J of the Health Act and serves a community of more than 25 people for more than 60 days a year.

**Table of minor and consequential changes**

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