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**SUBMISSION FORM**  
**Proposed Plan Change 1C: Water Allocation and Use**  
**Regional Plan: Water for Otago**  
December 2008

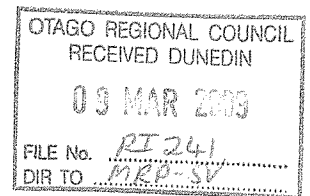
*Form 5, Clause 6 of the First Schedule, Resource Management Act 1991*

To: Otago Regional Council

Full name of submitter: Otago Water Resource Users Group ("OWRUG")

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We wish / ~~do not wish~~ to be heard in support of our submission (*delete the one that does not apply*).

~~If others make a similar submission, I will consider presenting a joint case with them at a hearing.~~  
(*Delete if you would not consider presenting a joint case*).

Date: 7 March 2009

**Please note that all submissions are made available for public inspection.**

**Signatures are not required for submissions made electronically.**

**Submissions must be received by 5pm, Monday 9 March 2009.**

The parts of the proposed plan change that our submission relates to (referring to the Table of Proposed Changes Reference Number and Proposed Plan Provision), our submission and decision sought from the local authority are:

**1. Reference Number 3: Issue 6.2.3**

- 1.1 The wording used in the Explanation means that all of the matters listed (a)-(h) are expressed to be examples of "inefficient or inappropriate practices" constraining the opportunities for the wider use of water. However this may not necessarily be the case e.g.:
- (a) There may be water lost through "leakage or evaporation" which in the circumstances might be unavoidable in terms of cost-effective alternatives and therefore be neither inefficient nor inappropriate;
  - (b) Utilising the most theoretically "efficient means of using the water" may not be economically feasible and may constrain available stock water and irrigation for downstream water users by eliminating by-wash and drying up the water table;
  - (c) Taking water on an individual basis, rather than co-operatively, might not necessarily be inefficient or inappropriate;
  - (d) Exporting water from a water-short catchment and transporting this to a location where water is plentiful may not be inappropriate. It depends on the new water source being cost-effective to utilise and legal access to it being available.
- 1.2 Referring to example (a) of the Explanation; evaporation from distribution systems occurs when open races as opposed to enclosed pipes are used for distribution. The wording in example (a) is therefore stating that distributing the water by water races as opposed to pipes is inefficient or inappropriate because of evaporation and that this is constraining the wider availability of water. We submit that water races are often an appropriate means to distribute water, that the statement contained in the explanation is inappropriate and oppose the amendment.
- 1.3 We request the following amended wording:
- "The effects of water shortages can be exacerbated by inefficient or inappropriate practices, for example. Such practices may include:*
- (a) *Water being lost through leakage or ~~evaporation~~ from distribution systems;*
  - (b) *..."*

**2. Reference Number 9: Policy 6.4.0A**

- 2.1 The intent of the additional paragraphs (b) and (c) is unclear to us. However the policy appears to be stating that if the Council considers that:
- (a) the proposed water transport system is not the most efficient means (and it has already been suggested by the wording of the Explanation to the proposed Issue 6.2.3 that a water race losing water to evaporation is either inappropriate or inefficient); and/or

(b) the means of application is not the most efficient; then regardless of whether or not those means are the most appropriate in the circumstances, the Council will reduce the quantity of water granted to equal the theoretical water loss as a consequence of these deemed inefficiencies. In other words, the policy seems to be stating that the volume of water allocation shall be used as a means to impose efficiencies.

2.2 However the outcome described above will not necessarily result in the desired effect, especially with respect to replacement resource consents, because:

- (a) regardless of the cutback, a more efficient means of transporting or applying water may not be practical or may not be cost-effective;
- (b) the cutback could render the total distribution and application system uneconomic;
- (c) the increased capital cost and/or running cost occurred in achieving greater efficiencies might only be justified provided the user can retain, for increased production, the additional water created by the efficiency measures; and
- (d) the surplus water created by the cutback may not be able to be used more efficiently by any one else.

2.3 The problem with the wording is the inflexible direction apparently being given that water allocation shall be cutback to compensate for perceived inefficiencies regardless of the economics or merits favouring no cutback. We consider this to be particularly problematic when considering its impact on applicants for replacement resource consents.

2.4 The Council wants to prevent excess water use as a consequence of inefficient water delivery systems or inefficient application systems and this is reflected in the amended rule 12.1.4.8 (v). On the other hand, the policy direction needs to reflect what is practically and reasonably achievable and needs to reflect the desirability of existing users having available more water for use as a motivation for, and to justify the cost of, increasing efficiencies. Because there are no such provisions in this policy there is no guidance to the implementation of rule 12.1.4.8 (v) in regard to these matters.

2.5 We request the Council to amend the policy and Explanation so that the level of efficiency sought for water delivery and application systems is practically and reasonably achievable and so that the policy addresses the option of leaving available for replacement consent holders the additional water created by increasing efficiencies.

### 3. Reference Number 10: Policy 6.4.0B

We support this policy but suggest that it would be better located within sections 6.6 and request this relocation.

### 4. Reference Number 11: Policy 6.4.0C

#### 4.1 First line of policy –

- (a) Prioritising the use of water as described may, depending on the circumstances, be workable if the competing applications were both new resource consent applications. However prioritising the use of water as

described when the more distant user is applying for a replacement consent (the "existing user") could result in solely the existing user having to meet the full capital cost of new capital works to take and deliver the water from the alternate source and writing off the existing capital investment to take and deliver the water from the original more distant source and the alternate local source may require significantly higher operating costs e.g. from pumping. This burden may not be cost-effective or may be inequitable. Furthermore, the existing user may not be able to obtain the legal right to deliver the water from the source to the user's property.

- (b) "Prioritise" is an absolute term whereas the consideration is qualified by the listed matters (a)-(d) to be taken into account.
- (c) For these reasons a more flexible term needs to be used than "prioritise".
- (d) We request that in the first line of the policy the word "prioritise" be replaced with "favour" so that the opening lines of the policy shall read:

*"To ~~prioritise~~ favour the use of water within the area it is taken from, over its use elsewhere, taking into account matters including..."*

#### 4.2 Paragraph (c) of the Policy –

- (a) We consider that the use of the word "possible" confuses the consideration. It is not considering if a "possible" source of water is available but rather if a "source" of water is available.
- (b) We request the deletion of the word "possible" so that the paragraph reads:  
*"Whether another ~~possible~~ source of water, including a water supply scheme, is available"*.

#### 4.3 Paragraph (d) of the Policy –

- (a) The consideration should be of the economic, social, environmental and cultural costs and benefits relating to taking the water from both alternate sources, whereas this is not clear from the wording.
- (b) We request that the paragraph should be amended to read:  
*"The economic, social, environmental and cultural costs and benefits that would result from the proposed take and use of water from one source compared to taking the water from the other source"*.

#### 4.4 Explanation: second paragraph –

- (a) The consideration to be made by the Council in deciding on the consent application is not solely "efficiency". The consideration covers all of the matters listed (a)-(d) which are not exclusive.
- (b) We request that the paragraph be amended to read:
  - (i) *"The Council may decline a consent application if ~~it considers~~ taking from another source of water is achievable and is a more efficient appropriate allocation of the water resource"*.

#### 4.5 Explanation: replacement consents –

- (a) The situation is more complicated when dealing with replacement consents. Some of these complications are described in clause 4.1 (a) above (i.e. the capital cost of the new works, writing off the capital cost of the existing distribution system and possibly higher and significant operating costs e.g. from pumping and the issue of who should equitably bear this cost).



The complications may also include the following inappropriate consequences of refusing a replacement resource consent application as contemplated in the second paragraph of the Explanation and authorised by the proposed Rule 12.1.4.8 (vi):

- (i) This would leave the user without access to water from the original source but with what could be a lengthy and uncertain process to obtain legal permission to take the water from the more local source and convey it to the user's property. The user's commercial operation would most likely not be able to withstand a lengthy period without available water. This can be compared with the purpose of section 124 which is to preserve the availability of water for the user while a replacement consent application is being processed. The protection intended by section 124 would not be available in applying policy 6.4.0C given the wording of the Explanation.
  - (ii) The users existing take would most likely have a primary allocation status. This status would be lost with the refusal to grant a replacement consent and may be replaced by a supplementary allocation with significantly less water available.
  - (iii) It cannot be certain that the user will obtain consent to take and use and get legal access to the local alternative source of water.
  - (iv) When this alternate source of water is applied for, there may be competing applications and the user (whose alternative replacement consent application has been turned down on the basis of the local source being available) would not have the priority protection created by sections 124A-124C for the new source of water that he would have had for the replacement consent application.
- (b) The only reference in the Explanation to the issue of replacement consents is the last paragraph which appears to be saying that the protection afforded by sections 124A-124C is not to be available.
- (c) We appreciate that the Council is not required to decline an existing user's consent application and must take into account all matters including the considerations listed as part of the policy. However in accordance with the Explanation, if the Council does wish to direct the existing user to the more localised source, then the method stated is to decline the consent application, which would then likely trigger the problems described in paragraph (a) above. The policy is simple in theory but complicated in practice. The Explanation needs to be much more practical, proactive, enabling and flexible when dealing with existing users, rather than to simply say that the protections afforded by sections 124A-124C are not available and the resource consent may be declined.
- (d) We request that the last paragraph of the Explanation be deleted and replaced with wording that is fair to existing users in terms of replacement consent applications and which will address our concerns raised in this clause 4.5.

**5. Reference Number 15: Policy 6.4.2A**

5.1 Our concern is with the third paragraph of the Explanation which reads:

*"Where that water is only able to be accessed at high flows, the take is effectively exercised as if it were of supplementary status under Policies 6.4.9 or 6.4.10, and would be more appropriately granted as supplementary allocation".*

5.2 As we interpret the situation, the Council has no authority to consider as a supplementary allocation an application for a replacement consent for a primary allocation.

5.3 Furthermore, even if the primary allocation can only be accessed during high flows, which would most likely be because of the existence of higher priority deemed permits, treating the high flow take as a supplementary allocation might result in a total inability to take the water even during high flow, because of the 50:50 flow sharing arrangement applying to the supplementary allocation.

5.4 We request that the part of the Explanation quoted in clause 5.1 be deleted.

**6. Reference Number 16: Policy 6.4.2B**

6.1 We support the intent of this policy as it relates to strictly new takes. However it has the following not so obvious effects:

(a) Water Management Groups –

(i) OWRUG is promoting the concept of water management groups, supports the functions set out in proposed policy 6.4.12A and considers that water management groups may provide a preferred method to achieve the transition from deemed permits pursuant to their expiry in 2021.

(ii) In a number of cases, we envisage the water management groups holding a single new water permit in substitution for the individual water permits held by the members of the group.

(iii) However the way policy 6.4.2B and the proposed definition of "Resource consent" in the Glossary (Reference Number 121) is worded, the substituted consent to be applied for by the Water Management Groups would no longer have the same primary allocation protection previously held by the individual consent holders i.e. the protection afforded by policy 6.4.2 (a) (ii) and (b) (ii). This would be a significant barrier to establishing water management groups.

(b) Transfers –

(i) The interest sought to be transferred under section 136 (2) (b) (ii) is deemed to be a new permit and treated as if it were a new application for a resource consent.

(ii) The transfer of a deemed permit under section 413 (9) is also deemed to be a new permit.

(iii) Both of these types of transfer would be captured by the sinking lid policy 6.4.2B. This is not appropriate.

- (iv) We note that policy 6.4.17 specifies that an eligible transfer under section 136 (2) (b) (ii) is to retain the "*take's allocation status*". However we interpret this to mean "primary allocation" compared to "supplementary allocation" as opposed to remedying the effect created by policy 6.4.2B.
- 6.2 We request that policy 6.4.2B or the definition of "new resource consent" be amended so that a water permit sought by a water management group in substitution for its members water permits, or a deemed new permit because of a transfer, are not caught by this policy.
- 6.3 With respect to the "Principal reasons for adopting" –
- (a) The policy has only adopted to avoid any continuation or increase in the primary allocation resulting from new resource consent applications. There may be a continuation of the primary allocation as a consequence of replacement resource consents.
  - (b) We request that the statement be reworded as follows:  
*"This policy is adopted to avoid any continuation or increase in the catchment primary allocation because of new resource consents,..."*
- 7. Reference Number 24: Policy 6.4.12**
- 7.1 We support this amended policy subject to the amendment requested below.
- 7.2 The second paragraph of the Explanation states that the "*committees will be made up of local representatives of people*". However the committees may also be a body corporate if a water management group is established. Such a body corporate is a separate legal entity to the "local representatives of people".
- 7.3 We request the first sentence of the second paragraph to be amended as follows:  
*"The committees may be a body corporate or body of persons and in either case will be made up of local representatives of people taking water from within the catchment affected by the rationing regime..."*
- 7.4 We favour the consolidation into section 6.6 of all policies for the promotion of management of water resources by users. For this reason, we request that this policy 6.4.12 should be relocated to section 6.6.
- 8. Reference Number 25: Policy 6.4.12A**
- We support this proposed policy but for the reason given in clause 7.4, we request that this policy be relocated to section 6.6.
- 9. Reference Number 26: Policy 6.4.13**
- We support this amended policy but for the reason given in clause 7.4, we request that this policy be relocated to section 6.6. We have also requested this for Policies 6.4.0B, 6.4.12 and 6.4.12A.
- 10. Reference Number 29: Policy 6.4.17**
- We support this amended policy.

**11. Reference Number 30: Policy 6.4.19**

- 11.1 This policy is significant by providing long-term security of access to water where instream needs have been assessed and provided for.
- 11.2 This policy will be more important for water management groups. For the users to justify the required substantial investment in time and money into creating water management groups, the users will need long-term security.
- 11.3 There is no reason or justification given in the section 32 Report as to why this policy should be deleted.
- 11.4 We request that this policy be reinstated.

**12. Reference Numbers 31 and 32: Policies 6.4.20 and 6.4.21**

- 12.1 These Policies were introduced to assist with the transition on expiry of deemed permits in 2021.
- 12.2 We accept that OWRUG's intention is that the respective water management groups will reach agreement with their users on water allocation, with the water management groups holding the water permit. Such an agreement will be a precondition to the users being part of the water management groups. To the extent that such agreement is achieved, this will resolve the issue of priority and avoid the application of Policies 6.4.20 and 6.4.21. However at this stage there is no guarantee that all catchments will implement water management groups or that the water management groups will be able to reach agreement with all users. Policies 6.4.20 and 6.4.21 may have an important role in resolving a workable allocation of water post 2021 in either or both of the following two scenarios:
  - (a) the allocation between a water management group and other primary allocation users who will not come within the water management group; and
  - (b) if no water management group is able to be established, the allocation between the primary allocation users;

where the historic take at various flows has been based on the deemed permits priorities.

- 12.3 If agreement is unable to be reached (and we hope that this will not be the case) than ultimate the water management groups and users will revert to the Council and possibly Environment Court to resolve allocation disputes on expiry of existing deemed permits. Policies 6.4.20 and 6.4.21 need to be available to the Council and Environment Court should this be the case. We emphasise that these Policies provide a tool to achieve a resolution but they are not mandatory.
- 12.4 As we recall it, these Policies were a result of the OWRUG Reference to the Environment Court and were resolved as part of the Environment Court hearing process. We accept that the Council has the legal right to seek to amend any provisions contained in the Water Plan. However surely there needs to be some change in circumstances, or some particularly compelling reason justifying the change of policies introduced through the Environment Court hearing process. There is no reason or justification given in the section 32 Report as to why these Policies should be deleted.
- 12.5 We request that these Policies be reinstated.

**13. Reference Number 33: Policy 6.6.0**

We support this policy.

**14. Section 6.6 Policies for the promotion of management of water resources by users**

**14.1 Section 94 (1) RMA affected persons status for water management groups –**

- (a) From our perspective, a significant purpose of the water management groups will be to resolve the problem of water allocation amongst the group's members and management of the instream flow requirements.
- (b) However not all existing primary allocation or supplementary allocation users may be members of the group. Furthermore, there may be applications by new uses for allocations on the same water body. If the water management groups are trying to set up a long-term water allocation regime, they would want to try and prevent this being frustrated by the conditions on outside users replacement consents or new consents to take.
- (c) For this reason, the water management groups would want to be treated as "affected persons" under section 94 (1) for non-notified applications relating to water affecting the catchment and we request a policy that provides for this.

**14.2 35 year term for water management groups –**

For the reason explained in clause 11.2, we request a policy that provides for a 35 year term for water management groups provided provision has been made for instream flows.

**15. Reference Number 78: Rule 12.1.4.8**

For the reasons given in section 12 of our submission, we request that the proposed deleted paragraphs (g) and (h) not be deleted.

**16. Reference Number 105: Method 15.2 .2**

We support the proposed amended Method.

**17. Reference Number 110: Information Requirement 16.3.1**

17.1 The proposed requirement 4A as written is unlimited in scope, would be extremely expensive to comply with and the information may be of no value as it refers to all possible sources of water regardless of:

- (a) the amount of water being applied for,
- (b) the practicality, capital cost and running costs of taking from such sources,
- (c) the cost of writing off existing capital works to take and distribute the existing water supply if an alternative source is to be considered, when the application is for a replacement consent,
- (d) whether or not the alternative water would be available and is sufficient for the applicant's use, and
- (e) the distance of the alternative water from the user.

Furthermore, the requirement could impose a high cost in investigating (possibly including exploratory drilling) and reporting on, possible groundwater sources.

- 17.2 There will no doubt be occasions when the alternative water source information is appropriate, especially for new consents, but equally there will be occasions when such investigation and information is simply a major waste of money especially when considering replacement consents.
- 17.3 We request that:
- (a) The requirement to provide the information should not be obligatory for all applications but should only be required when the circumstances of the case warrant it; and
  - (b) When considering whether the information should be provided, the matters the Council shall take into account shall include those matters identified in clause 17.1.
- 17.4 In administering the requirement to provide information, the Council always has the statutory power under section 92 of the RMA to request further information.

**18. Reference Number 121: Glossary: Note for definition of Resource consent**

- 18.1 Policies 6.4.2A and 6.4.2B use the phrases "replacement resource consent" and "new resource consent". These phrases need to be interpreted.
- 18.2 The proposed change under this reference number, provides an interpretation of these phrases but under a "Note" appearing below the interpretation of "Resource consent". It is our view that treating the interpretation of these two phrases as a "Note" causes some confusion as to the status of the reference.
- 18.3 We request that the interpretation of the phrases "replacement resource consent" and "new resource consent" be dealt with by a standalone provision for each of these phrases, with the Note under the interpretation of "Resource consent" to then cross-reference to those interpretation provisions.
- 18.4 Also see our request under clause 6.2 of this submission.

**19. Reference Number 123: Appendix 2A**

- 19.1 We support paragraphs 2A and 2A.2.
- 19.2 We support paragraph 2A.1 but consider there is a grammatical error in paragraph (a). We believe the paragraph needs to be amended to read as follows, and request this amendment:

*... the Council must be satisfied that:*

- (a) *A schedule has been provided that specifies the resource consents..."*



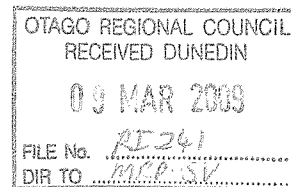
SUBMISSION TO THE  
OTAGO REGIONAL COUNCIL

ON THE

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Proposed Plan Change 1C Regional Plan: Water for Otago

Federated Farmers of New Zealand (Inc)



9 March 2009

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We wish to be heard in support of our submission

If others make a similar submission, I will consider presenting a joint case with them at a hearing.

## **PRINCIPLES ON WHICH THIS SUBMISSIONS IS MADE – SUBMISSIONS ON THE WHOLE PLAN CHANGE**

Federated Farmers undertook an exhaustive process with its members to develop a set of principles on water allocation that they believe should underpin all water allocation decisions. This included surveying members, specific focus groups and testing the principles against existing water allocation policies. These were then refined with feedback from the focus group and elected members. Specific submissions have been made on the basis of these principles.

The principles are included below as submission on the whole plan change in general. Our members generally consider that the proposed plan changes are not in conflict with the principles outlined below.

However there are a number of areas where our members consider that there is potential for conflict with these principles depending on how the objectives policies methods and rules are interpreted and implemented. Specific submissions have been made that will address these concerns.

### **Principle 1: Water allocation decisions must be based on sound information.**

It is essential that adequate, reliable information about individual catchments is established using science based information to determine the availability of water as a resource before water management policy is developed. Informed decisions may only be made on proven and tested information.

### **Principle 2: The system for water allocation must be relatively simple and cost-effective, for both the regulator and the user.**

### **Principle 3: Secure tenure and clear specifications for water use are fundamental.**

Water permit holders must have confidence that their investment will be protected from confiscation and unreasonable restrictions. Without security of tenure for water permits, long-term investment in improvements to existing irrigation schemes together with new investment in additional irrigation projects will be seriously inhibited.



**Principle 4: No one particular water allocation policy may be appropriate in all circumstances.**

Each catchment has different demands on water, different availability of water, and different values applied to water. It is therefore appropriate that individual catchments or sub catchments have water allocation policies that suit their specific characteristics.

**Principle 5: Water allocation regimes must not undermine local or community water allocation strategies.**

Community involvement in negotiated settlements, particularly in areas where water is over allocated, allows local communities to seek their own unique solutions. This gives communities a role in determining how allocation should be managed.

**Principle 6: Water allocation regimes should provide for water harvesting and storage.**

The augmentation and storage of current water supplies provide long-term opportunities to expand future water use options. Policies must enable and encourage this to happen in areas which are nearly fully allocated. Users should be able to utilise times of high flow and high groundwater to harvest water with least impact on the environment.

**Principle 7: Efficient use of water is best determined by water permit holders.**

Inappropriate regulations and controls on how and where water resources are used risk producing perverse outcomes that run counter to ensuring the efficient use of water resources. For example, efficiency tests should not be based on land use or whether the use is economic or not. Commercial drivers for efficiency should be left up to the user.

**Principle 8: The voluntary transfer or exchange of water permits must be accommodated in any water allocation regime.**

Flexibility is required within water allocation regimes to allow water permit holders to voluntarily transfer or exchange permits. Such transfers support the optimal use of water resources to meet the needs of both parties.

## GENERAL SUBMISSIONS

The following general submissions apply to the whole plan change and are supported by detailed and specific wording changes sought in the following table

Federated Farmers generally takes the following position on the key changes in the plan change

Supports establishing the relationship between groundwater resources and surface water where these are demonstrated to have an adverse effect on each other but Opposes the use of an arbitrary distance to calculate connectivity between surface and ground water

Supports local water for local use but considers that existing users should not be compromised by the policy

Supports the formation of water management groups but considers these groups will need significant incentives to combine consents

Opposes assessing replacement consents on the basis of historical use

Supports addressing the priority, allocation and use un catchments where they have been over allocated but considers the plan change fails to give security to existing consent holders in its objectives policies methods and rules to achieve this

Supports initiatives that enable the voluntary transfer of consents

Considers the section 32 report fails to adequately assess the economic impact of some of the objectives policies methods and rules

### ***Layout of specific submissions***

*Where suggestions have been made under specific submission – where possible specific word changes have been suggested as strikethrough or double underline subsequent amendments may be required as a result of these objectives policies and methods*



**SPECIFIC SUBMISSIONS**

<i>Proposed plan provision</i>	<i>Reference #</i>	<i>Support/Oppose</i>	<i>Decisions sought</i>	<i>Reasons</i>
6.1 Introduction	1	Support in part Oppose in part	Support encouraging the most effective and efficient use of water  Introduction should include wider considerations where deemed permits transition to resource consents and the importance of investment on security of supply  Include social and economic considerations of existing and future investment in water infrastructure (delivery and applications)	particularly where opportunities exist for using primary allocation to utilise shoulder season and winter flows to divert water for storage or to ensure more effective use of water to ensure that soils do not dry out to compromise a future season or crop establishment  existing deemed permit and consent holders should not have their existing reliability or access to water compromised when replacing existing consents or where transitioning from deemed permits to consent
Issue 6.2.3 and same wording throughout plan change	3	Oppose in part	Inefficient or inappropriate practices  Delete reference to inappropriate throughout issue and throughout plan change  <del>Consent holders retaining authorisation for more water than is actually required for their activities</del>  Delete and reword to the effect that Allocation has in some cases allocated more water to each consent holder than what is	It is not clear what inappropriate use might be – it is important that the water plan objectives and methods to not pre-judge or pick winners on appropriate use of water  FF considers that consent holders may have been allocated a consent to take water or hold a deemed permit that provide them significant flexibility in land use and to adapt



<p>actually available</p>	<p>to markets – there may be a number of cases where the consent holder has plans for the property based on a consent holding but has been unable to progress that investment – federated farmers supports consent conditions that reflect actual availability of water where there has been historical over allocation – but not derogation of existing consent holders</p> <p>While evaporation should be a consideration in the efficiency of distribution systems it must be only one on many consideration and must be considered in the context of other efficiency measures of the distribution system including the degree to which the evaporation occurring, the economic efficiency of other methods that reduce evaporation – this is particularly the case with the distribution if water through open water races</p>	<p>There are a number of circumstances where the allocation of monthly or annual volumes to consent holders exceeds what “theoretically” or might be modelled to match existing land use – however there are also a number of situations where security of supply, seasonal variations, possibility of winter storage, longer irrigation seasons, and changing land use responding to market demands means that in order to have the security of supply to encourage investment in the infrastructure required that consents need to reflect reality of use otherwise they become meaningless to the</p>
	<p>Water being lost through leakage or <u>evaporation</u> from distribution systems</p>	
	<p><u>Securing water in consents which is more than that which is needed for existing activities</u></p>	



Objective 6.3.1	5	Support in part Oppose in part	consent holder
Objective 6.3.2.A	6	Support in part Oppose in part	FF supports treating groundwater as surface water allocation where there is a more than minor influence on the surface water resource and where that information has been collected in a robust manner that proves connection  FF does not support treating groundwater as surface water where there is assumed to be a connection or there is insufficient information – all decisions in relation to water allocation must be based on robust information  FF does not support treating groundwater as surface water where there is assumed to be a connection or there is insufficient information – all decisions in relation to water allocation must be based on robust information  Principal reason for adopting is to ensure continued availability of groundwater for existing and future users and for natural and human use values of connected surface waters – a sustainable allocation regime will ensure all of these values are catered for while an allocation regime cannot be determined without robust information



Policy 6.4.0	8	Support in part	<p>Adopt as written with subsequent FF proposed amendments to objectives policies and methods throughout plan change</p>	<p>FF supports the policy, however we consider that it needs to be applied to the plan change and adopted by council in a way that provides a robust assessment of groundwater resources in the region and a determination of the level of connectedness before placing restrictions on groundwater allocation that may not be connected to surface water resources</p>
Policy 6.4.0.A	9	Oppose in part	<p>Add additional matters for consideration such as the following or wording to that effect consistent with the plan change and make subsequent amendments to plan</p> <p><u>(d) the economic efficiency of the system</u></p> <p><u>(e) the extent to which existing investment relies on the reliability and volume of the current allocation</u></p> <p><u>(f) the potential to respond to a change in land use</u></p> <p><u>(g) the potential for the use of water for storage</u></p>	<p>There are a number of circumstances where the allocation of monthly or annual volumes to consent holders exceeds what "theoretically" or might be modelled to match existing land use – however there are also a number of situations where security of supply, economic efficiencies of the current distribution system, seasonal variations, possibility of winter storage, longer irrigation seasons, and changing land use responding to market demands means that in order to have the security of supply to encourage investment in the infrastructure required that consents need to reflect reality of use otherwise they become meaningless to the consent holder – having the additional flexibility within a consent does not mean that the water is being "wasted" or used inefficiently – when the water is not required it is left in the resource or used by another consent holder – the consent is not exercised to its full extent just because it is there – this makes it difficult to allocate water based on theoretical limits for</p>

<p>a particular land use or based on historical use – it also creates a culture of use it or lose it among existing consent holders which will encourage inefficient practice where more water is used than is required simply because of the fear of what might happen when they replace an existing consent</p>				
<p>If this policy is to work in practice it will have to be voluntary</p> <p>There will be many instances where shared infrastructure and shared consents will enable economies of scale to enable the development and or use of small and large scale water storage – such investment in and use of water storage should be encouraged by objectives policies and methods and rules in the plan change where appropriate</p>	<p>Add bullet points</p> <ul style="list-style-type: none"> <li>◦ Voluntary approach initiated by consent holders</li> <li>◦ Opportunities for shared investment in and optimal use of water storage infrastructure</li> </ul>	<p>Support in part</p>	<p>10</p>	<p>Policy 6.4.0B</p>
<p>Applicants should not be required to undertake a full analysis of all of the alternative water sources available to them only of the viable sources and then only if the proposed source is not the immediate catchment or already part of a wider delivery scheme or group take</p> <p>Existing takes from water sources that might be captured by this policy should be recognised in an assessment of the available water to local use – an application to replace an existing consent may have no other viable option but to continue to take from a source that is not in the area where it is being delivered to – further while there</p>	<p>FF supports local water for local use however we consider prioritise does not adequately consider any existing use that may not fall within the policy</p> <p>FF seeks the following changes</p> <p>To <u>prioritise encourage</u> the use of water within the area...</p> <p>(d) add The economic, social, environmental and cultural costs and benefits that result from the <u>existing</u> and proposed take and use of water</p> <p>Explanation</p>	<p>Support in part</p> <p>Oppose in part</p>	<p>11</p>	<p>Policy 6.4.0C</p>



<p>may be an alternative source of water than is an appropriate use it may be close to or fully allocated or the reliability of the water source may severely compromise the existing investment</p>	<p><b>ADD</b></p> <p>The council may decline a consent application if it considers taking from another <u>viable source</u> of water is an appropriate allocation of the water resource</p> <p>Support recognition of existing use and associated investment of infrastructure and the extent to which an alternative source of water will compromise that existing use and reliability even where that use is in conflict with this policy – amend policy to reflect existing use</p>		
<p>FF supports determination of environmental flows and water levels but needs to ensure that these are robust and determined on sufficient data and that any effects on existing takes are a very integral part of determining a flow or water level</p>	<p>Flows and levels and allocation quantities must be determined by robust methods of sufficient rigour to provide for certainty for all users and environmental, cultural, economic and social values of the water resource – very careful consideration must be given to the current allocation where determining flows and water levels on water bodies that are close to fully allocated</p> <p>Retain restricted discretionary status for water allocation</p> <p>Ensure plan change provides for section 14 takes</p>	<p>Support in part</p>	<p>12</p>
<p>Policy 6.4.1</p>			



Policy 6.4.1A	13	Oppose in part	<p>Delete the following wording from the policy to remove all reference to 100m and make any subsequent amendment to plan change that is required to objectives policies and methods</p> <p>A groundwater take is allocated as surface water</p> <p>(a) Surface water ....</p> <p>(b) Surface water subject to a minimum flow if the take is within 100 metres of any connected perennial surface water body</p> <p>(c) Groundwater and part surface water if the take is 100 metres or more from any connected perennial surface water body ...</p> <p>Amend explanation</p> <p>Delete most and add</p> <p>Some aquifers...three ways of managing</p> <p>Amend schedule 2c as necessary to reflect degree of connectivity between surface and groundwater</p> <p>Delete all reference to 100 metres throughout policy</p>	<p>FF considers that a 100 metre distance to assume connection is too arbitrary</p> <p>It is not based on sound science and is too precautionary</p> <p>It will create anomalies where one take is 90 metres and another is 110 with a different set of conditions on a consent</p> <p>It is not sound resource management – either the groundwater is connected enough for it to have a more than minor effect on surface water or not</p> <p>As more information is available on each surface water body and associated groundwater then further water bodies can be added to schedule 2C – only then should any established distances be identified if all other information is not precise enough to determine the level of connectivity and this distance should apply to the specific water body</p>
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<p>Policy 6.4.2.A</p>	<p>15</p>	<p>Oppose</p>	<p>There is considerable support for addressing historical over allocation, however it is not as simple as basing each replacement consent on historical use that can lead to undermining existing investment or limiting future potential land use</p> <p>Delete entire policy or add wording to the effect that provides for the flowing matters</p> <p>Delete reference to historically accessed throughout policy and subsequent amendments to plan change</p> <p><u>the economic efficiency of the system</u></p> <p><u>the extent to which existing investment relies on the reliability and volume of the current allocation</u></p> <p><u>the potential to respond to a change in land use</u></p> <p><u>the potential for the use of water for storage</u></p> <p>delete reference to allocating existing primary takes as supplementary takes</p>	<p>See reasons under policy 6.4.0A</p> <p>FF supports the policy in that consent holders should be given certainty about when where and how much water is available for use from a water body and consent conditions should as close as possible reflect what really is available to take however there may be situations where this policy is in conflict with encouraging shared use, water management groups and efficient use</p> <p>FF opposes granting primary takes as supplementary takes – conditions on the consent should reflect actual availability of water but should not “reclassify” a consent which may completely change level of priority and reliability within a catchment even at higher flows</p>
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<p>Policy 6.4.2B</p>	<p>16</p>	<p>Oppose in part</p>	<p>If the "decrease with time" is providing for reducing the amount of water available for allocation then FF seeks the deletion of this policy</p> <p>We consider that as an added incentive to the formation of water management groups that replacement consents under this policy will be considered under a primary allocation if they are primary consents and that deemed permits be treated as replacement consents</p> <p>Amend principal reasons for adopting by INSERTING</p> <p>This policy is adopted to avoid any continuation or increase in the catchment primary allocation as a <u>result of new consent applications</u></p>	<p>Certainty must be given to existing users that there current allocation and priority of use will not be eroded by providing for further primary allocation beyond what the resource can provide for – however we do not support this policy if the intention is to "claw back" the availability of primary allocation</p> <p>FF seeks further clarification in the wording in policy so it is clear that the intent of the policy is to avoid further over allocation not to reduce the amount of water available for allocation to existing users especially if they are to combine consents in water management groups where an appropriate allocation regime can be decided between users</p>
<p>Policy 6.4.9</p>	<p>17</p>	<p>Support</p>	<p>Retain policy</p>	<p>FF supports providing for supplementary allocation on a 50 50 flows sharing basis to ensure</p> <p>Availability of water for storage</p> <p>No effect on existing users</p> <p>Provide for peaks and troughs of instream flows</p>



Policy 6.4.10A	18	Support in part	<p>FF supports the allocation of groundwater and specifying maximum annual volumes that can be taken from a groundwater resource</p> <p>Policy must ensure that where possible limits are set for specific groundwater resources and where they are set that existing users are considered as part of the annual allocation</p>	<p>Annual allocation limits are best set specifically for each water body using robust data</p> <p>Allocating 50% of mean annual recharge should not lead to over allocation and create uncertainty for existing and new users</p>
Policy 6.4.10C	20	Support	Retain	
Policy 6.4.11	23	Oppose in part	<p>FF supports the ability of council to suspend takes where a minimum flow is reached – however permitted section 14 takes should be able to continue in such suspension period</p>	<p>FF considers that the RMA provides for certain takes as set out in section 14</p>
Policy 6.4.12	24	Support	Retain	<p>Where these are established these can work very effectively for communities in determining allocation regimes – however they must be proactively supported and monitored by council to ensure they are effective, efficient and fair in implementing a particular allocation regime</p>



<p>Policy 6.4.12A</p>	<p>25</p>	<p>Support in part</p>	<p>Wording should be consistent with allocation committees</p> <p>Amend</p> <p>To promote, <del>appoint</del> <u>establish</u> and support</p> <p>Add bullet</p> <p>Where necessary appoint members of a water management group by delegating authority and to ensure that the obj policies and methods of the OR plan: water are met</p>	<p>Wording should be consistent with water allocation committee</p> <p>There is confusion among consent holders about how these groups will differ from water allocation committees – council will need to be proactive in their promotion of the benefits of such groups</p>
<p>Policy 6.4.13</p>	<p>26</p>	<p>Support in part</p>	<p>Council must make clear that this policy relates to allocation committees and water management group and their functions or delegated functions</p> <p>FF opposes the suspension of permitted takes as provided for by RMA section 14</p>	
<p>Policy 6.4.16</p>	<p>28</p>	<p>Oppose in part</p> <p>Support in part</p>	<p>Any requirement to measure must be efficient and cost effective and relative and appropriate to the effect on other users and the water resource</p> <p>Amend wording to include bullet points to this effect in the policy</p> <p>Oppose measuring requirements on all permitted takes</p>	<p>Policy must be consistent with NES</p> <p>Any requirement to measure must be assessed against the possible impact of not measuring – any data collected that is sued for public good monitoring must be reflected in a reduced cost to the consent holder</p> <p>Measuring devices required must be appropriate to the user and relative to the amount of water taken and its potential impact on the water resource and other users</p>



Policy 6.4.17	29	Support	Retain	FF supports the facilitation of the voluntary transfer of resource consents
Policy 6.4.19	30	Oppose	Restate policy as stated in plan Retain specific policy providing for maximum term consents	The plan should provide for maximum term consents subject to appropriate conditions – this is the only way that consent holders can ensure certainty for their investments – Council has the ability to review consent conditions if necessary – the inclusion of this policy sends a strong signal to consent holders that compliance with the plan and conditions of consent will result in certainty of length of consents – this policy also provides council with some “carrots” to incentivise the transfer of deemed permits to resource consents
6.4.21	31 and 32	Oppose	Consideration should be given to providing a policy that encourages the transition of deemed permits to resource consents Rewrite policy and reinstate	Section 32 report does not provide an explanation for deletion of policy  Deemed permit holders will need incentives to transition to resource consents prior to their expiry – council should be undertaking proactive measures to enable this transition to occur through the inclusion of objectives, policies and methods in the plan

	33	Support	Retain	Support retention as written
Policy 6.6.0				
9.4.2	41	Support in part	Policy should recognise that the application of groundwater to soil can also maintain or enhance the quality of the soil	Generally landowners would not intentionally degrade their soil resource which along with water is their most precious asset on their properties – policy should recognise the positive benefits of the application of water to some soils
9.4.22	56	Oppose in part	Such groundwater quality monitoring should not fall on an individual consent holder Support only requiring monitoring where it is appropriate to do so	There are a number of situations where a requirement for monitoring forms part of a public good and state of environment monitoring – the costs of that monitoring should not fall on an individual consent holder – where this monitoring is a requirement of a consent condition for annual volume or to measure a take the other public good components of monitoring that resource should be recognised
Rules 12.1.1.1 – 12.1.4.7	60 – 77	Support	Retain	Consequential amendments to rules
Rule 12.1.4.8	78	Oppose in part Support in part	Amend (xvi) any actual or potential effects on any groundwater body Add additional matters for consideration including the following or wording to that effect	Any considerations of the impact on a groundwater resource should be limited to the actual effects of the proposed activity  Matters for consideration should also



			<p><u>the economic efficiency of the system</u>  <u>the extent to which existing investment relies on the reliability and volume of the current allocation</u>  <u>the potential to respond to a change in land use</u>  <u>the potential for the use of water for storage</u>          FF supports the notification and written approvals clause</p>	<p>include existing investment for a replacement consent and the economic efficiency of the whole system</p>
<p>Rules 12.1.4.9 – 12.1.6.2</p>	<p>79 – 83</p>	<p>Support</p>	<p>Retain</p>	<p>Subsequent amendments to plan</p>
<p>Rules 12.2.1.2 – 12.2.2.6          Rule 12.2.3.1A          Rule 12.2.3.2A          And all subsequent objectives policies and rules and methods throughout plan change</p>	<p>87 – 92 96 98</p>	<p>Oppose in part</p>	<p>On all groundwater rules delete all reference to within 100 metres of xxx and replace with the rate of surface water depletion should be no more than 5l/s as calculated using schedule 5A</p>	<p>FF considers that a 100 metre distance to assume connection is too arbitrary          It is not based on sound science and is too precautionary          It will create anomalies where one take is 90 metres and another is 110 with a different set of conditions on a consent          It is not sound resource management – either the groundwater is connected enough for it to have a more than minor effect on surface water or not          As more information is available on each surface water body and associated groundwater then further water bodies can</p>





				<p>be added to schedule 2C – only then should any established distances be identified if all other information is not precise enough to determine the level of connectivity and this distance should apply to the specific water body</p>
<p>Rule 12.2.3.4</p>	<p>100</p>	<p>Oppose in part</p>	<p>(xi) any actual or potential effects on any surface water body</p> <p>Add additional matters for consideration including the following or wording to that effect</p> <p><u>the economic efficiency of the system</u></p> <p><u>the extent to which existing investment relies on the reliability and volume of the current allocation</u></p> <p><u>the potential to respond to a change in land use</u></p> <p><u>the potential for the use of water for storage</u></p> <p>FF supports the notification and written approvals clause</p>	<p>Any considerations of the impact on a surface water resource should be limited to the actual effects of the proposed activity</p> <p>Matters for consideration should also include existing investment for a replacement consent and the economic efficiency of the whole system</p>
<p>Method 15.3.1</p>	<p>106</p>	<p>Support</p>	<p>Retain support for assessment of alternative water sources</p>	<p>Applicants should not be required to undertake a full analysis of all of the alternative water sources available to them only of the viable sources and then only if the proposed source is not the immediate catchment or already part of a wider delivery scheme or group take</p> <p>FF considers that there is a strong role for</p>

					council to undertake a review of existing information in order to provide an assessment of alternative water sources that can be available to applicants where applying for replacement and new consents
Method 15.8.1	108	Support in part		Calculation must be consistent with NES Environmental flows and methods methodology	Calculation must be consistent with NES Environmental flows and methods methodology
Information requirements	110	Oppose in part		4A delete and replace with or similar <u>An assessment of the viable(feasible) alternative water sources including where necessary economic and environmental reasons why the alternative source is not viable(feasible)</u>	FF considers that a full cost benefit assessment of all possible sources of water is far beyond the scope of an individual applicant and unnecessary in terms of information requirements of the RMA – while a consideration of the viable alternatives is necessary this should be done in conjunction with information held and collected by regional council in accordance with method 15.3.1
Schedule 2	111	Oppose in part		Reward to reflect that only connected groundwater should be treated as surface water  <u>In accordance with Policy 6.4.1A, connected groundwater...</u>	Consistent with earlier submissions deleting 100m connection to surface water
Schedule 2B	113	Oppose in part		Amend Waianakarua minimum flow	
Definition of resource consent	121	Support		Amend to provide as separate definitions and consistency with RMA	Important if that these descriptions they relate specifically to the plan then they should be separate definitions that provide consistency with the plan and the RMA
Appendix 2A	123	Support		Retain	Gives effect to water management groups

## **The Submitter and its process**

Federated Farmers of New Zealand (Inc) is a voluntary, primary sector organisation nationally representing farming members and their families. Federated Farmers has a long history of representing the needs and interests of New Zealand's farming communities, primary producers and agricultural exporters.

The Federation aims to add value to its members' farming business by ensuring that New Zealand provides an economic and social environment within which our members may operate their business in a fair and flexible commercial environment.

Water is an extremely important resource to all of our members in Otago irrespective of whether they utilise it for irrigation, as they are strongly reliant on a quality water resource for the health of their stock and the sustainability of their communities. The Federation represents over 1200 members within the Otago Regional Council boundaries.

This submission is made on the basis of enabling the sustainable and economic use of the water resources available to our members while ensuring that its quality and quantity will not be adversely affected by the activities associated with the farming business and the communities in which they operate.



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Form 5

**SUBMISSION ON PUBLICLY NOTIFIED PLAN CHANGE**  
*Clause 6 of First Schedule, Resource Management Act 1991*

To **Otago Regional Council**  
Private Bag 1954  
Dunedin

By facsimile: 03 479 0015

OTAGO REGIONAL COUNCIL RECEIVED DUNEDIN 09 MAR 2009 FILE No. <i>RF241</i> DIR TO <i>MRP-38</i>
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Name of submitter: Maheno Farms Limited (*Maheno Farms*)

- 1 This is a submission on a variation to the following plan (the **proposal**):
  - *Regional Plan: Water for Otago: Proposed Plan Change 1C Water Allocation & Use*
- 2 The specific provisions of the proposal that Maheno Farms' submission relates to are:
  - 2.1 Issue 6.2.3(b), Issue 6.2.3 generally, and *Explanation*
  - 2.2 Issue 6.2.4A and Objective 6.3.2A and *Explanation*
  - 2.3 Policy 6.4.0B and *Explanation*
  - 2.4 Policy 6.4.0C and *Explanation*
  - 2.5 Policy 6.4.1A and *Explanation*
  - 2.6 Policy 6.4.2A and *Explanation*
  - 2.7 Policy 6.4.2B and *Explanation*
  - 2.8 Policy 6.6.0 and *Explanation*
  - 2.9 Rule 12.1.4.8(viii), (xi) and (xii)
  - 2.10 Rules 12.2.2.5(ii)(c), 12.2.2.6(ii)(b), 12.2.3.4(x), Rule 12.2.3.4(vii) and Rule 12.2.3.4 (viii)
  - 2.11 Rules 12.2.3.4(xii) and 12.2.3.4(xiii)
  - 2.12 Method 15.8.1A
  - 2.13 Information Requirement 16.3.1 4B
  - 2.14 Information Requirement 16.3.1 5A
  - 2.15 Schedule 2B

2.16 Any other consequential provisions (and amendments) related to the above

3 Maheno Farms' submission is:

- Issue 6.2.3(b) is supported in part; however, sufficient recognition must be given the likely future needs of the consent holder and the intended longterm uses of the water. It needs to be made clear that despite a consent being given effect to, the consent holder - either through short-term climatic conditions, or the staged development of its infrastrucutre, may not need the entire peak flow immediately after giving effect to the consent.
- Issue 6.2.3 and *Explanation* fails to recognise that there are also benefits to exporting water to water short catchments and why it is appropriate to encourage this in the *Regional Plan: Water for Otago*. An additional provision should be added to the Issue.
- Issue 6.2.4A and Objective 6.3.2A and *Explanation* need to recognise and accept that any taking of groundwater may cause some level of reduction in levels or pressure in the groundwater resource and that this is acceptable in the context of the Resource Management Act 1991 – the key consideration is instead whether it prevents another party getting access to the resource in some form. In *Napier City Council v Hawkes Bay Catchment Board*<sup>1</sup> the appeal board quashed a compensation condition but in doing so acknowledged that:

*"The Act envisages the multiple use of natural water and it is the function of the respondent to apportion the available water between users and/or potential users thereof. There is nothing in the Act to indicate the necessity for maintenance of well pressure as opposed to the availability of the water itself. If, as a result of multiple use of available water, users are required to install pumps, this does not in any way infringe their right to make use of that water. It simply governs the method by which it is made available. If loss of pressure indicated a depletion of the aquifer to a point where continued supply might be imperilled then that would be a situation in which the respondent could invoke its powers under the Act. Loss of pressure and/or a drop in the level of water at a well-head might in some circumstances enable the invocation of powers under the Act but this would be a question of fact and a matter of degree which could only be assessed at an appropriate time in the future."* [Emphasis added.]

The subsequent decision of the Planning Tribunal in *Jordan v Marlborough Regional Water Board*<sup>2</sup> also confirms this approach.<sup>3</sup> The then Planning Tribunal confirmed that a later consent can still be granted even if its

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<sup>1</sup> (1978) 6NZTPA 426 (pre RMA but same considerations apply)

<sup>2</sup> (1982) 9 NZTPA 129

<sup>3</sup> As cited in *Re Meridian Energy Limited* (Unreported, Environment Court Christchurch, C125/03, Jackson J)

effect is to require the installation of a pumping device or if the effect is to reduce the ease of capture of the water.

Although set in different context, the very recent decision of *Southern Alps Air v QLDC*<sup>4</sup> has also made it clear that a “derogation” can only rise in the relatively limited circumstances of quantitative access to the resource. Issues of qualitative access (such as expense or operational issues) should be considered as effects as a part of the consenting process – they are not fundamental to the grant of consent.<sup>5</sup>

Accordingly, Objective 6.2.4A and the *Explanation* to Objective 6.3.2 should be clear that some effect on neighbouring bores such as a minor lowering in water levels is acceptable – but no activity should prevent a neighbouring bore from accessing water in its entirety.

- Policy 6.4.0B and *Explanation* should provide for groundwater consents otherwise considered on a surface water allocation basis to revert to being straight surface water takes through the various mechanisms described in the Policy – this will give full flexibility to the shared use and water management and allow consent holders to readily transfer or share the use of connected groundwater takes.
- Policy 6.4.0B and *Explanation* could also be improved through the more explicit use of “Water Users Groups” which would allow for consent holders of equivalent reliability to agree to share water during times of restriction between themselves without going through the difficulties of a formal transfer or variation under the Act (the Waimakariri River Regional Plan issued by Environment Canterbury is an example of such an approach).
- Policy 6.4.0C and *Explanation* must be explicit that the consent authority cannot make a comparative assessment between applications or other potential uses of water. Such an approach would be ultra vires. If the Council has a concern that future uses (e.g. town and community water supply) need to be protected then it must be done through the allocation of specific volumes of water to activities such as that for Table 5 of the Waitaki Catchment Water Allocation Regional Plan (as partially reflected in Table 12.1.4.4A of the *Regional Plan: Water for Otago*) – it cannot be done on an ad hoc basis through the resource consent process.

It also needs to be accepted that consent holders and applicants may incur significant costs or limitations in accessing an alternative source of supply and as such Policy 6.4.0C and the associated *Explanation* should not be used as a reason to fetter or prevent an individual accessing its preferred point of supply (provided it meets the general concept of sustainable management under the Act). The policy is ultra vires and either needs to be amended or deleted from the variation.

- Policy 6.4.1A and *Explanation* need to be amended to make it clear that a groundwater take otherwise treated as surface water in the context of allocation can be freely transferred to being straight surface water. This will give better effect to the intent of Policy 6.4.0B.

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<sup>4</sup> Unreported, High Court Wellington, CIV-2007-485-000134, Panckhurst J

<sup>5</sup> *Mt Cook National Park Board v Mt Cook Motels Ltd* (cited in the above) is helpful on this issue too.

- Policy 6.4.2A and *Explanation* need to be made clear that a consent holder/applicant may still wish to seek an increase in its allocation or rate for a variety of reasons upon renewal of the consent and that this may, in some instances, be able to be accommodated in the existing allocation regime (even if the increase itself is not covered under section 124 to 124C).

The renewal of a consent should also allow an applicant to, for example, alter its intake structure or to increase the size of or move the location of an infiltration gallery to better access water upon renewal of the consent provided it does not adversely and unacceptably affect other users, the environment, or overall allocation; and equally, where appropriate (and where a groundwater take is treated as surface water for allocation purposes), nothing should prevent an applicant moving from groundwater to surface water supply, or surface water to connected groundwater.

- Under Policy 6.4.2B and the associated *Explanation* it should be made clear that it is still possible to grant further consents in a fully allocated primary allocation block where the applicant is able to operate under a concurrency condition so that the peak rate and volume already consented will not increase – this will allow for better use of the resource and for example, enable a farmer to better use some of their irrigation allocation/peak rate under its existing consents for another purpose under another new consent without losing the flexibility to revert back to their full irrigation consent.
- If Policy 6.4.10B is moved, it needs to be made clear that some effect may occur and that not necessarily all effects are adverse – the submitter otherwise repeats its submission in relation to Issue 6.2.4A and Objective 6.3.2A and the associated *Explanation*
- Policy 6.6.0 should be amended to ensure consent holders are encouraged to also take any section 14(3) activities (e.g. stockwater or domestic supply water) through the same shared infrastructure provided that they can demonstrate to the consent authority that:
  - the water taken under any consented entitlements has been metered separately (with no penalty or metering requirements being imposed on the section 14(3) matters); and
  - that the section 14(3) component taken from the shared infrastructure will be used on a single/individual property on the basis set out in that section.

This will reduce the requirement for individual consent holders to also maintain their own infrastructure alongside any shared water infrastructure to cover s14(3) matters – an inefficient and potentially poor use of the resource, or one that could still for example require multiple intakes or points of supply

The Policy should also be extended to allow and encourage consent holders who hold more than one resource consent to take their consented entitlements (along with any section 14(3) entitlements) through the same infrastructure – particularly where these are from the same surface water and/or connected groundwater resource.



- Rule 12.1.4.8(viii) is ultra vires as the Council cannot consider competing demands for water or undertake comparative uses between applicants as a part of the resource consent process – this can only be done through the allocation of specific amounts of water to activities through the plan formation process as elsewhere set out in this submission.
- Rule 12.1.4.8(xi) is supported in part, but should be amended to ensure that consideration is given to consent holders who hold more than one consent and may wish to effectively and more efficiently manage the resource and their take and use between their separate consents.
- Rule 12.1.4.8(xii) should be amended to read "Any water storage facility or proposed water storage facility available..." to accept that many applicants will be unwilling to actually commit to the construction of storage reservoirs until they have certainty over their resource consents.
- Rules 12.2.2.5(ii)(c), 12.2.2.6(ii)(b) and 12.2.3.4(x) need to be amended to ensure that it is only effects that would result in another consent holder being unable to access the resource that are relevant to the adverse effects mentioned in the Rule as technically any effect could be adverse – the submitter otherwise repeats its general comments around Issue 6.2.4A and Objective 6.3.2A and the associated *Explanation*.
- Rule 12.2.3.4(vii) is supported in part, but should be amended to ensure that consideration is given to consent holders who hold more than one consent and may wish to effectively and more efficiently manage the resource and their take and use between their separate consents.
- Rule 12.2.3.4 (viii) should be amended to read "Any water storage facility or proposed water storage facility available..." to accept that many applicants will be unwilling to actually commit to the construction of storage reservoirs until they have certainty over their resource consents.
- Rules 12.2.3.4(xii) and 12.2.3.4(xiii) need to be amended to ensure that it is clear that this only needs to be considered where the groundwater take is not either already, or will be through Plan Change 1C, considered part of the surface water allocation regime.
- Method 15.8.1A needs to be consistent with existing allocation practices with supplementary flows on the Kakanui and other rivers.
- Information Requirement 16.3.1 4B should be amended to ensure that it reads "...whether there is a water supply scheme in the area and whether the applicant could access water from that scheme" to prevent any issue with a scheme being fully allocated or the scheme's provision of water being unsuitable for the intended use by the applicant.
- Information Requirement 16.3.1 5A should be amended to ensure that it reads "groundwater, potentially affected parties who..." to reflect the fact that not all nearby consent holders/parties will be actually affected
- Schedule 2B should be amended to better reflect the recent grant of a supplementary flow consent to Maheno Farms Limited which, in conjunction with the Council, has better developed the flow blocks set out in the Plan.

- 4 Maheno Farms seeks the following decision from the local authority:
  - 4.1 Such relief as set out above and any consequential or related relief which might be necessary to give effect to the above.
- 5 Maheno Farms wishes to be heard in support of the submission.
- 6 If others make a similar submission, Maheno Farms will consider presenting a joint case with them at a hearing.

Signed for and on behalf of Maheno Farms Limited by its solicitors and authorised agents  
Chapman Tripp



Jo Appleyard / Ben Williams  
Partner / Solicitor  
9 March 2009

(A signature is not required if you make your submission by electronic means)

Address for service of submitter:

Chapman Tripp  
119 Armagh Street, Christchurch  
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**SUBMISSION ON PROPOSED PLAN CHANGE 1C – Water Allocation and use  
TO THE REGIONAL PLAN – Water for Otago**

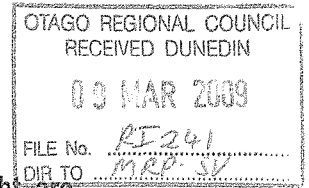
44

**TO:** Otago Regional Council

**SUBMISSION ON:** Proposed Plan Change 1C to the Regional Plan – Water for Otago

**NAME:** Horticulture New Zealand

**ADDRESS:** PO Box 10 232  
WELLINGTON



1. **Horticulture New Zealand's submission, and the decisions sought, are detailed in the attached schedules:**

Schedule 1 Chapter 6 Water Quantity  
Schedule 2 Chapter 9 Groundwater  
Schedule 3 Chapter 12 Rules

2. **Horticulture New Zealand wishes to be heard in support of this submission.**

3. **Background to Horticulture New Zealand and its RMA involvement:**

3.1 Horticulture New Zealand was established on 1 December 2005, combining the New Zealand Vegetable and Potato Growers', New Zealand Fruitgrowers' and New Zealand Berryfruit Growers Federations, and also includes Olives New Zealand.

3.2 This submission is made by Horticulture New Zealand in conjunction with growers associations in Otago

3.3 On behalf of its 6,000 active grower members Horticulture New Zealand takes a detailed involvement in resource management planning processes as part of its National Environmental Policies. Horticulture New Zealand works to raise growers' awareness of the RMA to ensure effective grower involvement under the Act, whether in the planning process or through resource consent applications. The principles that Horticulture New Zealand considers in assessing the implementation of the Resource Management Act 1991 (RMA) include:

- The effects based purpose of the Resource Management Act,
- Non-regulatory methods should be employed by councils;
- Regulation should impact fairly on the whole community, make sense in practice, and be developed in full consultation with those affected by it;
- Early consultation of land users in plan preparation;
- Ensuring that RMA plans work in the growers interests both in an environmental and "right to farm" sense.

Thank you for the opportunity to comment on the Proposed Plan Change 1C.



Chris Keenan  
**Manager, Resource Management and Environment**

Date: 9 March 2009

Address for Service:

Chris Keenan  
Manager – Resource Management and Environment  
Horticulture New Zealand  
P O Box 10-232  
WELLINGTON  
Phone: DDI (04)470 5669  
(04) 472 3795  
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## SCHEDULE ONE: Chapter 6 – Water Quantity

### 1.1 Issue 6.2.3

Issue 6.2.3 sets the framework for the objectives and policies associated with use of water. The issue includes 'inappropriate' water use practices and retaining more water than is actually required. These are effectively defined in the Explanation.

While Horticulture New Zealand supports the general principles of efficient water use there are aspects of use pertaining to horticulture that need to be reflected in the Issue and Explanation. Providing for seasonal rotational considerations, with differing water requirements needs to be encompassed within the plan. There needs to be sufficient flexibility in the policy approach to enable growers to change crop or land use without needing to apply for new water take consent.

While working cooperatively on water takes is supported there needs to be recognition that taking on an individual basis may be the most appropriate approach for a grower and that such an approach should not be considered as 'inappropriate' under the Plan.

**Decision Sought:** Amend Issue 6.2.3 Explanation as follows:

b) Delete 'or using'

e) Delete e)

g) Amend to read: Poorly sited and constructed bores, (such as bores not fully penetrating the aquifer) and inadequately maintained bores.

h) Amend to read: Securing water in consent which is more than needed for reasonably anticipated activities on the land.

### 1.2 Policy 6.4.0A

There needs to be provision for seasonal crop rotation to be considered as one of the factors in Policy 6.4.0A.

In addition there needs to be clarity as to how the efficiency of the application system and transport system will be assessed.

**Decision Sought:**

Add an additional point to Policy 6.4.0A: d) seasonal crop rotation.

Add to the Explanation details as to how the efficiency of the application system and transport system will be assessed.

### 1.3 Policy 6.4.0B

Horticulture New Zealand supports Policy 6.4.0B.

**Decision Sought:** Retain Policy 6.4.0B.

### 1.4 Policy 6.4.0C

Horticulture New Zealand supports Policy 6.4.0C.

**Decision Sought:** Retain Policy 6.4.0C.

1.5 Policy 6.4.1

Policy 6.4.1 sets the framework as to how takes from surface water will be managed. One mechanism is through 'defined allocation quantities'. It is assumed that the 'defined quantities' are those specified in Schedule 2. If that is the case then the Policy should refer to Schedule 2 so it is clear where the defined quantities are set.

The Explanation states that takes from water bodies where water is plentiful is a 'full discretionary' activity. It is considered that since there is adequate water such takes should be restricted discretionary.

**Decision Sought:** Amend 6.4.1 a) by adding 'as set out in Schedule 2.

Amend the last sentence of the 3<sup>rd</sup> para of the Explanation to be 'restricted Discretionary' not 'discretionary'.

1.6 Policy 6.4.1A

Policy 6.4.1A provides for groundwater takes, except in situations where there is a connection to surface water. Clause b) sets an arbitrary distance of within 100 metres of any connected perennial surface water body. Clause c) sets a 5 litres per second threshold. It is considered that the 5 litres per second threshold is adequate to determine the level of connection rather than rely on an arbitrary distance. Clause b) could be deleted and such takes be determined by applying Clause c).

**Decision Sought:** Delete Policy 6.4.1A b)

1.7 Policy 6.4.2A

Policy 6.4.2A sets the framework for assessing applications for replacement resource consents. The policy is based on an assessment of water that has been 'historically accessed'. However it is unclear how such assessment will be undertaken. For instance, is it based on one year, or over a number of years? In terms of horticultural growers will it take into account different crop regimes and differing seasonal rotations?

The Explanation states that evidence of the rate and volume of water will be required, but does not state over how many years or the cropping regime of the historical use. These are factors that could influence the determination of the water that has been historically accessed.

There needs to be greater clarity as to how the policy will be applied.

**Decision Sought:** Amend the last paragraph of the Explanation as follows:  
Evidence of the rate and volume of water taken over the last 5 years, with further provision for crop changes and rotations, will be used as a basis for determining water historically accessed.

1.8 Policy 6.4.10B

Policy 6.4.10B provides for affected parties approval for groundwater takes. However there is no provision that the bores of such affected parties are functioning adequately, maintained and adequately penetrating the aquifer. It is inappropriate that the written

approval of an existing bore owner is required if the functionality of the bore is inadequate.

In addition the need for affected party approval should be addressed at the point of consent application and not a mandatory requirement in the Plan.

**Decision Sought:** Amend Policy 6.4.10B as follows:

In managing the taking of groundwater, to have regard to avoiding adverse effects on existing groundwater takes where the existing bore is adequately penetrating the aquifer and is adequately maintained.

1.9 Policy 6.4.10C

Horticulture New Zealand supports the policy that bores are adequately sealed to maintain artesian pressure but consider that the policy for existing bores should be stronger than promotion.

A new user should not be penalised because of potential interference to a bore that that is inadequately sealed.

**Decision Sought:** Amend Policy 6.4.10C as follows: All bores will be taken as being adequately sealed when assessing the potential interference to existing bores as part of resource consent applications for new bores.

1.10 Policy 6.4.12

Horticulture New Zealand supports Policy 6.4.12 to promote, establish and support water allocation committees.

**Decision Sought:** Retain Policy 6.4.12

1.11 Policy 6.4.12A

Horticulture New Zealand supports Policy 6.4.12A to promote, appoint and support water management groups.

**Decision Sought:** Retain Policy 6.4.12A

1.12 Policy 6.4.17

Horticulture New Zealand supports the transfer of water provisions but is concerned that reliance on Sec 136 (2) b ii) of the RMA means that all such transfers are discretionary activities by default. If the transfer meets all the requirements of the policy then restricted discretionary activity status should be adequate.

**Decision Sought:** Amend Policy 6.4.17 to provide for transfers as a restricted discretionary activity.

1.13 Policy 6.4.19

Proposed Plan Change 1C seeks to delete Policy 6.4.19. Horticulture New Zealand

seeks that the policy is retained as it provides for the term that consent may be issued for. Changes could be made to the policy to provide for review clauses to ensure that the take continues to meet requirements.

A 35 year term is supported as it provides for security of supply to enable the level of investment required to provide for efficiency mechanisms for the take.

**Decision Sought:** Retain Policy 6.4.19.

1.14 Policy 6.6.0

Horticulture New Zealand supports Policy 6.6.0 to promote and support development of shared water infrastructure.

**Decision Sought:** Retain Policy 6.6.0.



**SCHEDULE TWO: Chapter 9 – Groundwater**

2.1 Policy 9.4.2

Proposed Change 1C seeks to delete the majority of Policy 9.4.2. The only part that is sought to be retained relates to irreversible or long degradation of soils arising from use of the water for irrigation. However there is a lack of clarity as to how such a policy would be assessed and what measures for 'avoiding' would be considered by the Council as part of a resource consent condition.

**Decision Sought:** Delete Policy 9.4.2.

2.2 Policy 9.4.22

Policy 9.4.22 provides for a requirement that groundwater quality be monitored. It is unclear as to the extent and nature of such monitoring. The policy needs to be explicit so that there is clarity for all plan users.

**Decision Sought:** Amend Policy 9.4.22 to provide clarity as to the extent and nature of water quality monitoring that may be required.

## **SCHEDULE THREE: Chapter 12 - Rules**

### 3.1 Rules 12.1.1 through to 12.1.4.7

Generally, Rules 12.1.1 through to 12.1.4.7 are supported subject to any consequential amendments sought in the other sections of this submission.

#### **Decision Sought**

Retain (with consequential amendments sought by Horticulture NZ) Rules 12.1.1 through to 12.1.4.7.

### 3.2 Rule 12.1.4.8 – Restricted discretionary activity considerations.

Horticulture NZ would like to ensure that the flexibility of rural land use is maintained. Vegetable crops are seasonal in their water requirements and grown based on a rotation designed to protect soil from damage and to grow crops that will provide the best return for the grower. Water availability has to be based on the maximum use in any probable seasonal rotation. Water availability should also not restrict the ability to change from one land use to another; for example from non irrigated pasture to an irrigated horticultural crop such as stonefruit or potatoes. Water use also varies according to the needs of any particular crop in any season.

Horticulture NZ supports the adoption of efficient measures to use water for rural production activities but notes that efficiency can be problematic to determine, depending on the definition. For efficiency to be included a definition will be required to provide certainty for the users. Currently efficiency is not defined in the plan. Because the word means different things in different context, the definition should be included as a part of the rule. Horticulture NZ seeks a definition targeted at technical efficiency for the proposed use of the water, and for the proposed method of application.

In order to encourage efficient use users require certainty about the term of water use. In Otago there are other reasons (including historic rights to water being derogated) why the consent period should not be reduced from 35 years unless there is a good reason to do so. Given the conditions in all reviews and on all consents that provide for review Horticulture NZ does not support the inclusion of duration as a matter of discretion.

For these reasons Horticulture NZ seeks the following amendments to the matters for discretion:

#### **Decision Sought**

Delete conditions 12.1.4.8 (iii), (iv) and (xxii)  
Amend condition (v) by adding "technical" in front of efficiency.  
Include a definition for technical efficiency in the rule.

### 3.3 Rules 12.1.4.9 – 12.2.2.A.1

Generally, Rules 12.1.4.9 – 12.2.2.A.1 are supported subject to any consequential amendments sought in the other sections of this submission.

#### **Decision Sought**

Retain (with consequential amendments sought by Horticulture NZ) Rules 12.1.4.9 – 12.2.2.A.1.

3.4 Rule 12.2.3.1A and consequential amendments to groundwater rules.

Horticulture New Zealand does not support all groundwater takes within 100 metres of a surface waterbody arbitrarily being treated as surface water takes. This is not an effects based approach. The method to test surface water depletion (attached in schedule 5a) should be adequate to determine no surface water depletion effect results from a groundwater take.

**Decision sought**

Delete all references to the proposed 100 metre setback for groundwater rules to apply; and replace with controls that indicate the rate of surface water depletion should be no more than 5l/s as calculated using schedule 5A.

Make consequential amendments to other groundwater rules in line with the relief sought for this rule.

3.5 12.2.3.2A

Rule 12.2.3.2A is supported subject to any consequential amendments sought in the other sections of this submission.

**Decision Sought**

Retain (with consequential amendments sought by Horticulture NZ) Rule 12.2.3.2A.

3.6 12.2.3.4

For the reasons outlined in section 3.2 of this submission above (relating to the matters of discretion for surface water takes); Horticulture NZ seeks similar relief with respect to the matters for discretion relating to groundwater takes.

**Decision Sought**

Delete conditions 12.2.3.4 (iii), (iv) and (xviii)

Amend condition (v) by adding “technical” in front of efficiency.

Include a definition for technical efficiency in the rule.

3.7 Rules 12.2.3.5 – 12.2.5.1

Generally, Rules 12.2.3.5 – 12.2.5.1 are supported subject to any consequential amendments sought in the other sections of this submission.

**Decision Sought**

Retain (with consequential amendments sought by Horticulture NZ) 12.2.3.5 – 12.2.5.1.





**SUBMISSION FORM** *1C: Water Allocation + Use*  
**Proposed Plan Change ~~1B: Minimum Flows~~**  
**to the Regional Plan: Water for Otago**  
**December 2008**

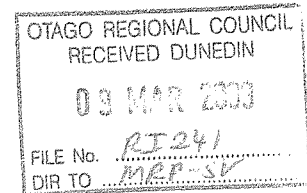
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Office Use Only

*Form 5, Clause 6 of the First Schedule, Resource Management Act 1991*

Full name of submitter: Geoff Taylor

Name of organisation (*if applicable*): **Luggate Creek Community and Guardians (representing the Luggate Community Association, Farmers and interested parties associated with The Luggate Creek) present and represented at the workshops held with the ORC.**

Postal Address:  
Number/Street: 157 Shortcut Rd  
Suburb: R.D.2  
Town/City: Wanaka  
Postcode:



Telephone: 03 443 8552

Fax: 03 4438252

Email: jillswool@clear.net.nz

Contact person: Geoff Taylor

I wish to be heard in support of my submission (*delete the one that does not apply*).

If others make a similar submission, I will consider presenting a joint case with them at a hearing. (*Delete if you would not consider presenting a joint case*).

Date: 9/3/2009

**Please note that all submissions are made available for public inspection.**

**Signatures are not required for submissions made electronically.**

**Submissions must be received by 5pm, Monday 9 March 2009.**

**The parts of the proposed plan change that my submission relates to are:**  
(Give clear references if possible e.g. reference number, policy x, rule y)

Proposed Plan Change 1B (Minimum Flows) Luggate Creek

Proposed Plan Change 1C Water Allocation and Use Luggate Creek

**My submission is:**

*(Include whether you support, oppose, or wish to have amended the parts identified above, and give reasons)*

This submission cannot support in full this minimum flow level of the Luggate Creek on the basis of the information provided and agreed to at the presentations and workshops, which used to set this flow level, has since varied.

That specifically being, the ORC allowing or reinstating additional waters takes from the Luggate Creek which we were informed were to be deleted and would not therefore come into this calculated figure.

**I seek the following decision from the local authority:**

*(Give precise details e.g. changes you would like made)*

A re-evaluation of this flow needs to take place if water take figures vary from what was presented to include this change and or any conditions of use of this take.

This is also applicable to any future applications and how they may affect the Luggate Creek.

**SUBMISSIONS MUST BE RECEIVED BY 5.00PM, MONDAY 9 MARCH 2009**

**Please send submissions to:**

Email: [policy@orc.govt.nz](mailto:policy@orc.govt.nz)

Post: Attn: Policy Team, Private Bag 1954, Dunedin 9054

Fax: (03) 479 0015 (Attn: Policy Team)

Deliver: 70 Stafford Street, Dunedin; or

William Fraser Building, Dunorling Street, Alexandra; or

The Station, 1<sup>st</sup> Floor, Cnr Shotover and Camp Streets, Queenstown





# Proposed Plan Change 1 C

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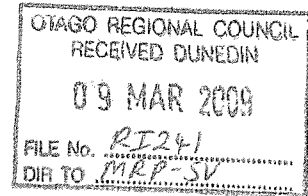
## Submitter Information

Full Name Pisa Irrigation Company

Address Locharburn RD 3  
Cromwell  
9383

Telephone 03 4451204

Contact Person Joyce Brown



Signature of Submitter .. *JMBrown* .....

Date..8.1.3.1.09

I am sure Federated Farmers and Otago Water Resource Users Group will have the same concerns we have.

The parts of the proposed plan change that our submission relates to are:

6.2.3

6.3.1

6.4.C

6.4.D

6.4.1

6.4.F

6.4.16

6.4.17

6.6

15.2.2

16.3.1

Our Submission is

6.2.3 Amend

The consent needs to take into consideration that the quantity of water required can vary, with a year with more reliable rains seeing less water being needed than in a much drier year.

The Pisa Irrigation Company each season puts out a water roster allocating each users water, the water from the Clutha River is on a fortnightly roster while the Tinwald and Lochar Creek water is on a three weekly roster. The demand for water varies in the spring with frost

protection for grapes and cherries being a high priority, and the hot summer weather seeing maximum demand. Each year is different and where one year the requirement for water may be in September through till the end of April another year it may be less, being totally weather related.

Evaporation does occur in dams ponds and especially when water is conveyed long distances the main Pisa Race is approximately ten kilometers.

Water loss through leakage does occur but we do our best to keep that to a minimum.

#### 6.3.1 Amend

For as long as anyone can remember water from the Tinwald and Lochar Creeks has been taken and used for mining and irrigation. There are short periods throughout the year when water from these creeks reaches the Clutha River but for the greater part of the year it runs underground leaving the creek bed dry. The taking of irrigation water utilizes what otherwise would be lost.

#### 6.4.C Support

This is currently how our scheme operates.

#### 6.4. D Support

The majority of irrigation from the upper Pisa Flats is currently managed and maintained by our scheme.

#### 6.4.1 Amend

Where water has been taken historically and has not affected aquatic life it should continue to be available for irrigation.

#### 6.4.F Amend

Changes in land use and new technology should be able to be implemented without a new consent or variation of consent being required. This impedes progress takes time and adds substantial cost to the water user.

#### 6.4.16 Amend

The explanation here makes sense however it is vastly different to the current policy the ORC are implementing. Water measuring can be very expensive and in some cases totally impractical, the consent may require the measurement to be taken at the head and on a daily basis, access may be by foot, when a measurement further down the race would supply relevant information and be a lot simpler.

#### 6.4.17 Support

By intended purpose we support an allocation being granted for other uses eg mining and ponds to enhance the landscape and for water storage.

#### 6.6 Support

We support 6.6A to promote and support development of shared water structure.

#### 15.2.2 Support

We would like to see encouragement given to water users in the same area to form water management groups.

#### 16.3.1 Amend

We appreciate that some record of quantity of water taken is required but we would like to see that the method of recording is sustainable.

Currently the cost of metering is often greater than the return from the water taken, particularly where the quantity of water taken is very small.

If a user has a water allocation and is paying for it the way they use it should be up to them and not be dictated by the ORC.

I seek the following decision from the local authority:

The rulings be simple easily understood and sustainable.

That the cost structure be reviewed and streamlined currently it is complex and costly.

Nowhere in this document does it state the term the consent would be issued for, we suggest 35 years. To encourage early renewal of consents prior to the expiry in 2021 this needs to be known and be an incentive for early renewal.

In our case the security of right of renewal is imperative for our 50+ shareholders and the continuation of our businesses.



**SUBMISSION FORM**  
Proposed Plan Change 1C Water Allocation and Use  
to the Regional Plan: Water for Otago  
Form 5, Clause 6 of the First Schedule, Resource Management Act 1991.

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Office use only

Full name of submitter: Directors: Richard John Anderson & John Wayne Anderson

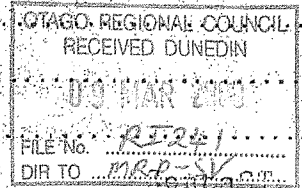
Name of organisation (if applicable): Kawarau Station Ltd

Postal address: Bodkina

P.O. Box 268, Alexandra Postcode:

Telephone: Fax:

Email: Contact Person: Mary Flannery



I wish / do not wish (circle preference) to be heard in support of my submission.

If others made a similar submission, I will consider presenting a joint case with them at a hearing.  
(Cross out if you would not consider presenting a joint case)

Signature of submitter: *M. Flannery* Date: 9/13/09  
(or person authorised to sign on behalf of person making submission)

Please note that all submissions are made available for public inspection.

~~The parts of the proposed plan change that my submission relates to are:~~

(Give clear references if possible e.g. reference number, policy x, rule y)

See Attached Application

~~My submission is:~~

(Include whether you support, oppose, or wish to have amended the parts identified above, and give reasons)

See Attached Application

**Seek the following decision from the local authority:**

*(give precise details e.g. changes you would like made)*

**SUBMISSIONS MUST BE RECEIVED BY 5.00 PM, MONDAY 9 MARCH 2009.**

Please fold and secure with a small piece of tape.

FreePost Authority ORC 1722



**Otago Regional Council**  
Private Bag 1954  
Dunedin 9054

Attention Policy Team

## PROPOSED PLAN CHANGE IC WATER ALLOCATION AND USE TO THE REGIONAL PLAN: WATER FOR OTAGO

### SUBMISSION OF KAWARAU STATION LIMITED

Directors: - Richard John Anderson  
John Wayne Anderson

The following submissions relate to the part of the plan identified by description clause and reference number as follows.

#### CHAPTER 6: WATER QUANTITY

##### Introduction 6.1 (Reference 1)

It is submitted that the proposed change to Introduction 6.1 by addition of words "will recognise current access to water but will also consider the intended purpose for use of the water" needs to be amended to "acknowledge and recognise the current access" and "will also consider the current purpose for the use of the water" not "intended". The words "intended use" under the original grant was for mining. The Otago Regional Council (ORC) needs to acknowledge current use largely irrigation and the historical rights. In considering the protection of aquatic systems the ORC also needs to acknowledge that the water bodies have been affected for the last 100 – 150 years by deemed permits and that affect should not now be revisited.

##### Issue 6.2.3 (Reference 3)

Submit the following matters in relation to Issue 6.2.3 (a) and (b)

- a) The addition of the words "inappropriate" is opposed as the ORC is not the appropriate organisation to decide "appropriate" water use. A decision on appropriate water use could have the effect of dictating the land use of an owner or tenant. Their discretion should be limited to efficiency matters only.
- b) The issue of Consent holders retaining more water than the water actually required should also include a consideration proposed future requirement and development.
- c) Proposed uses by way of development may have been hampered only because of economic matters which may not have affected intention of the consent holder. Where future intention is to develop when possible this should be a consideration of the ORC and therefore no limitation pursuant to actual usage should be imposed.

##### Explanation part of 6.2.3

The list of inefficient or inappropriate practices set out within the explanation gives no weight or consideration to the economic cost of change which has a huge impact both individually and at a



community level and cannot be separated from consideration of all listed examples. The ORC must also include this as a consideration in their decision making process.

Policy 6.4.0 (Reference 8)

The addition of the paragraph noted as policy 6.4.0 contains a statement that the ORC need to recognise the hydrological characteristics of Otago Water Resources including behaviours and trends. The ORC should also recognise the affect of the use of the current deemed permits, which is completely interrelated with the hydrology of the region and cannot be easily be separated from an understanding of current existing hydrological characteristics..

The understanding of the hydrological characteristics should include the effect of deemed permits that have been operating for more than 100 years so their effect is not a separate consideration.

Policy 6.4.0A (Reference 9)

The proposed additions to this rule, that require the grant of take to be only for amount required for the intended purpose, taking into account water transfer efficiency and application system efficiency, should have an additional consideration. A fourth matter to add as a consideration is the "most economically viable efficient transport and application system. Efficiency cannot be separated from a global view of the overall economic efficiency based on returns from application of the water. The feasibility of the transfer and application system is an important consideration. It may be that the technically most efficient system is not the most economically viable and may in fact not be viable based on a return for the use of water. Therefore it should not be an ORC decision as to what transfer and application mentioned is required or alternatively the ORC must be required to take into account economic viability.

Policy 6.4.0B (Reference 10)

The addition of this new policy of promotion of shared use and water management should not by default mean that when considering an application for resource consent it must be a requirement of any resource consent to be part of a shared use scheme. It should be voluntarily only. Further the shared use scheme should have the ability to recognise the historical priority rights of deemed permit holders and be able to operate on a basis that protects these.

Policy 6.4.0C (Reference 11)

The addition of this new policy prioritising the use of water within the catchment area from which it is obtained and not transporting the water outside the catchment area requires the considering of the alternatives. Greater weight needs to be placed on the cost of establishing alternative source and on historical use.



The alternatives must be economically and physical feasible and this should be stated as a consideration.

Policy 6.4.1 (Reference 12)

The proposed change to (b) of 6.4.1 providing provision for water body levels and flows does not clearly require a consent for the taking of surface water to be subject to minimum flows and reads that all consents are subject to minimum flow requirements.

Each take is affected automatically by the "provision of water body levels and flow". It is submitted that it should be a requirement, as previously, to be a condition of the consent to be subject to minimum flows. Clarification is required on ORC intent.

Policy 6.4.2A (Reference 15)

The proposal to grant consent for a replacement consent only for a rate and volume of water historically accessed needs further clarification. How are the records of water historically accessed to be proved? Historically perhaps there may have been no measuring and the take may have fluctuated over a season. The Policy should be amended to include words that the take to be at the greatest volume that consent holders are deemed to have historically accessed. The process to ascertain the measure of historically accessed water needs to be clear and transparent if there are no detailed records.

Evidence needs to be appropriate as the ability to produce specific or measured evidence by applicants may be limited. All anecdotal and historical matters to be considered.

Within the wording of the principal reason, for adopting this Policy there should be included a statement as to the fairness to water users based on historical rights. The historical rights must be a consideration.

Policy 6.4.21 (Reference 32)

It is submitted that it is not appropriate to delete this clause relating to restriction on the exercise of a water permit to allow the exercise of another permit. It is an appropriate mechanism for recognising priority rights that are currently attached to mining privileges, (deemed permits).

**Chapter 12: RULES WATER TAKE USE AND MANAGEMENT**

Rule 12.1.4.7 (Reference 77)

This rule relating to the taking and use of water lists a number of matters to which the ORC will restrict the exercise of its discretion.

In regard to the proposed new matters listed which the ORC will restrict the exercise of its discretion relating to the issuing of a replacement primary allocation consents the following matters submitted:

Under clause (IV) the ORC must restrict the exercise of its discretion to "the rate and volume of water historically accessed". That rate and volume may not be able to be ascertained with certainty. A change of words should be "the rate and volume of water historically accessed if able to be ascertained".

Under the proposed clause (VI) the words "feasible" should be included before the word "sources" ensures time and money is not required to be expended on discussions about unreasonable sources of water. Adding the word "feasible" would mean other sources that are not feasible for economic and physical reasons can be rejected.

It is submitted that the proposed clause (VIII) relating to competing lawful demand should not be a consideration of the ORC and should be deleted. It is not the ORC position to ascertain fairness of competing demands.

Under the proposed clause (XI) a matter of discretion is the arrangement or cooperation with other water users. If discretionary consideration the ORC may require the consent holder to be part of such an organisation. It is submitted that this should be a promotion role of the ORC only, not have the effect of being a requirement and condition of consent. A change to the wording of this discretion to reflect voluntary or to be removed. An applicant should not be required to be part of a water user group.

#### Rule 12.1.4.9 (Reference 79)

This clause relates to suspension of water takes under this clause. The water takes may be suspended by the ORC by Public Notice. It is no longer a requirement for the water take permit to be subject to the minimum flow to be required to be suspended under minimum flow requirements.

The words "subject to minimum flow" need to be reinstated.

Leaving as the proposed changed wording effects majority of takes not only those subject to restrictions.

## **CHAPTER 16: INFORMATION REQUIREMENTS**

### Information Requirements 16.3.1 (Reference 110)

The information requirements proposed under 4A relating to description of all possible sources of water with assessment for each take to be required are too onerous.

The requirement for information should be changed to all feasible sources of water. The information concerns the provision of an assessment of all "possible" water sources which

is excessive and costly to provide. This information required should also be limited to new resource consents and not applicable to replacement consent and should relate only to feasible sources. The description of "possible" is too wide and would require information on any water source that is not impossible to access. Feasibility of the sources an essential requirement.

Under proposed clause 4B a statement about how the applicant proposes to work with the other water uses should not be a requirement but a choice of the applicant therefore this information requirement should be removed.

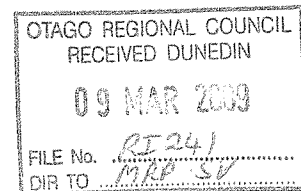


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Form 5  
Submission on publicly notified proposal for policy statement or plan

*Clause 6 of First Schedule, Resource Management Act 1991*

To                                 The Chief Executive  
  Otago Regional Council  
  Private Bag 1954  
  DUNEDIN 9054



Name of submitter: The Director-General of Conservation

This is a submission on the Proposed Plan Change 1C Water Allocation and Use to the Regional Plan: Water for Otago (the proposal).

The specific provisions of the proposal that my submission relates to are:

As set out in Attachment One

My submission is:

As set out in Attachment One


I seek the following decision from the Otago Regional Council:

- a) That Plan Change 1C be retained or amended as set out under the headings "Decision sought" in Attachment One or to like effect; and
- b) That any other consequential amendments to the Plan required to explain or give effect to these changes be made.

I wish to be heard in support of my submission.

\* If others make a similar submission, I will consider presenting a joint case with them at a hearing.

~~\* Delete if you would not consider presenting a joint case.~~

  
.....

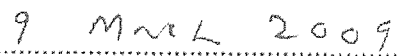
Signature of submitter  
Jeffery Edward Connell

Conservator

Otago Conservancy

Department of Conservation

Pursuant to a delegation from the Director-General of Conservation

  
.....

Date

(A signature is not required if you make your submission by electronic means.)

Address for service of  
submitter:

PO Box 5244  
DUNEDIN 9012

Telephone:

(03) 477 0677

Fax/email:

(03) 477 8626

Contact person: [*name and  
designation, if applicable*]

Bruce Hill  
Community Relations Officer- Planning  
Ph (03) 474-6959  
Email fbhill@doc.govt.nz

# ATTACHMENT ONE

Additions are shown in double underline, deletions are shown in ~~double strikethrough~~.

## WATER QUANTITY

### 6.1 Introduction

1. The Director-General of Conservation (D-G) requests that the following amendment be made to the first paragraph as the current uses and importance of water doesn't reflect other major uses of water.

#### Decision sought

Water is an important resource to many of Otago's people and communities due to its use for domestic and ~~public-community~~ water supply, stock drinking water, irrigation, hydro-electric power generation, its value for recreational and ecological uses and industrial supply. This chapter .....

2. The D-G supports the proposed amendments to the second and third paragraphs as these recognise the need to consider competing demands for water.

#### Decision sought

Retain the proposed amendments.

3. The D-G requests that the following amendments be made to the fourth paragraph so that the potential impact of land use activities on the sustainable management of water and the direction given in the Regional Policy Statement for Otago are clearly specified.

#### Decision sought

This chapter, along with the relevant rules in Chapter 12, ensures that water will be managed in a sustainable manner. This is achieved through the regulation of the taking, damming or diversion of water and by managing the impact of land use activities on water quantity. The chapter also promotes management of the rationing of water takes during periods of water shortage by resource users where this can be effective. This chapter applies in detail the direction given by the Regional Policy Statement for Otago (in particular Objective 5.4.2 and Policy 5.5.5) to the management of activities affecting water quantity.

4. The D-G requests the following amendment be made to sixth paragraph as this gives effect to “Regional Policy Statement for Otago” Objective 6.4.4.

Decision sought

The water allocation provisions of this chapter are intended to provide for the maintenance and enhancement of aquatic ecosystem and natural character values of water bodies.

## 6.2 Issues

1. The D-G requests the following amendment be made to Policy 6.2.3 so that the potential and actual impact of inappropriate land use activities is recognised.

Decision sought

6.2.3 Opportunities for the wider use of available water resources are constrained by:

- ~~(a) inefficient or inappropriate water use practices;~~
- ~~(b) Inappropriate land use activities; and~~
- ~~(c) Consent holders retaining authorisation for more water than is actually required for their activities.~~

2. The D-G requests the following amendments be made to the Policy 6.2.3’s “Explanation” so that:

- a) The range of the uses of water is more inclusive;
- b) The range of inappropriate practices includes examples of inappropriate land use; and
- c) The need for comprehensive management of catchments is acknowledged.

Decision sought

Explanation

A range of domestic, agricultural, natural, recreational, industrial and commercial uses rely on sufficient quantities of water in Otago. ~~However, wider use of the water is constrained by water shortages. Such~~ The effects of water shortages can be exacerbated by arise for either of two reasons: the natural limits of the water resource or the inefficient or inappropriate water use practices, for example. The latter can result in the waste of water, particularly through the following:

- (a) Water being lost through leakage or evaporation from distribution systems;.....



(i) Inappropriate land use in some catchments, such as exotic forestry, tussock grassland clearance and wetland development, all of which can decrease water yield; and

(h) Poor water quality due to inappropriate land use and/or discharge of contaminants.

Transporting water from areas where water is scarce, and delivering it to locations where water is plentiful is poor management of the water resource. It could result in local users, who have no choice other than to utilise that source, having inadequate access to water. Potential users might also find less allocation is available as a result of water being secured by existing consents. Comprehensively managing the available water resources within catchments is therefore crucial.

3. The D-G requests that the following amendments be made to Policy 6.4.0, so the potential and actual impact of inappropriate land use activities and the significant contribution indigenous vegetation makes to water quality and quantity are recognised.

Decision sought

6.4.0 To recognise the hydrological characteristics of Otago's water resources, including behaviour and trends in:

(a) The levels and flows of surface water bodies; and

(b) The levels and volumes of groundwater; and

(c) Any interrelationships between adjoining bodies of water, and

(d) The impact of different land use on water yield;

(e) The contributions intact indigenous vegetation makes to water quantity and quality.

when managing the taking of water.

4. The D-G requests that the following amendments be made to Policy 6.4.0's "Explanation", so the potential and actual impact of inappropriate land use activities is acknowledged.

Decision sought

Explanation

Lakes and rivers across Otago have highly specific morphology. Their lack of uniformity in size or behaviour means they can vary from month to month, depending on climatic variability and trends in taking.

thus influencing the availability of water. Aquifers have different geological characteristics which can affect the ease of water movement within them (“transmissivity”) and their inherent storage capacity (“storativity”). Most aquifers contribute water to wetlands, lakes, springs and the base flow of streams and rivers, while the flows in some rivers will support aquifer levels. Lowering groundwater levels through takes from coastal aquifers can result in seawater intruding inland.

Land use within catchments, particularly in headwaters, has the potential to alter water yields. For example, the establishment of exotic forestry has been shown to reduce water yield by up to 35%, whilst removal of tussock grasslands has the potential to reduce water yield also.

Before the Council .....

5. The D-G supports the acknowledgement in Policy 6.4.0A(a) that vegetation can affect the quantity of water requested for use.

Decision sought

Retain the proposed amendments.

6. The D-G requests Policy’s 6.4.0C that “Principal Reasons for adopting” be amended as follow so that the community’s needs are more inclusive.

Decision sought

Principal reasons for adopting

This policy promotes the management of Otago’s water resources in a way that enables continued access to suitable water. This will ensure Otago’s communities can provide for their social, recreational, cultural and economic wellbeing, now and for the future.

7. The D-G requests the following amendment be made to Policy 6.4.1 so that environmental flows within affected waterbodies are retained.

Decision sought

6.4.1 ~~To enable~~ manage the taking of surface water; by

- a) ~~subject to d~~Defined allocation quantities; and
- b) ~~subject to p~~Provision for the retention water body levels and of ~~in stream~~ environmental flows.; ...

8. The D-G requests the following amendments be made to Policy's 6.4.1 "Principal reasons for adopting" so that all instream values, including natural character, are sustained.

Decision sought

Principal reasons for adopting

This policy is adopted to enable consumptive users' access to surface water while sustaining aquatic-ecological instream values.

9. The D-G supports proposed Policy 6.4.2A as it enables the more efficient use of water, but the D-G notes that the effectiveness of this policy will depend largely on the measurements of the previous take.

Decision sought

Retain the proposed amendments.

10. The D-G supports Policy 6.4.2B as it enables the more effective management of over allocated catchments.

Decision sought

Retain the proposed amendments.

11. The D-G requests the following amendment be made to Policy 6.4.10A as the limiting allocation to 50% of the calculated mean annual recharge for those aquifers not specified in Schedule 4A is:

- a) Inconsistent with the allocations stated within the Proposed National Environmental Standard on Ecological Flows and Water Levels (proposed NES); and therefore
- b) Potentially exposes some Otago aquifers to over allocation.

Decision sought

6.4.10A [From 9.4.2, 9.4.4, 9.4.5 and 9.4.10] To manage the taking of groundwater by:

(a) Limiting allocation through the identification of a quantity, known as the maximum allocation volume, which is:

i)...

ii) ~~50~~35% of the calculated mean annual recharge for those aquifers not specified in Schedule 4A;.....

12. The D-G requests that the following amendment be made to Policy's 6.4.10A's "Explanation", so to give effect to the proposed amendment in point 11) above.

Decision sought

Explanation

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 35% of the mean annual recharge of the aquifer, or the maximum allocation volume listed in Schedule 4A; and

13. The D-G requests that the following amendment be made to the third paragraph of Policy 6.4.10A's "Principal Reason for Adopting", so to give effect to the proposed amendment in point 11) above.

Decision sought

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 Policy 5.4.2 and 5.4.3. Allocating 35% of mean annual recharge ensures the remaining 65% provides for adequate levels of system outflow.

14. The D-G supports the proposed amendment to policy 6.4.11 as it enables the better management of Otago's water takes.

Decision sought

Retain the proposed amendments.

15. The D-G supports Policy 6.4.16 but notes that water measuring devices should comply with Proposed National Environmental Standard for Water Measuring Devices.

Decision sought

Retain the proposed amendments.

16. The D-G supports the proposed amendments to Policy 6.4.17 as these will enable the more efficient use of water.

Decision sought

Retain the proposed amendments.

## 6.7 Anticipated environmental results

1. The D-G requests the inclusion of the following “Anticipated environmental result” so to give effect to amendments proposed previously.

Decision sought

- 6.7.9 The potential impact of some land use activities on water yield is recognised and managed.

## GROUNDWATER

### 91. Introduction

1. The D-G requests the following amendment be made, so to better reflect the uses of groundwater.

Decision sought

Groundwater is the water that occupies or moves through openings, cavities or spaces in geological formations under the ground. It is an important resource to many of Otago’s communities, where it serves a number of recognised uses. These uses include domestic and public water supply, stock drinking water, irrigation, recreational, ecological and industrial uses. Groundwater and associated springs are valued by Kai Tahu, who find discharges containing human sewage to such water culturally offensive.

## RULES: WATER TAKE, USE AND MANAGEMENT

1. The D-G requests in relation to Rules 12.1.3, 12.1.4.1, and all other rules for activities that aren’t permitted activities, that given the statutory roles of the D-G pursuant to the Conservation Act 1987 and the Freshwater Fisheries Regulations 1983, the D-G always be treated as an affected party, unless by prior agreement to the contrary.

#### Decision sought

That the Director-General of Conservation always be treated by the Otago Regional Council, be treated as an affected party for applications to take and use water, unless by prior agreement to the contrary.

2. The D-G requests that the following amendment is made to Rule 12.1.4, so that when assessing such applications consideration is given to avoiding, remedying or mitigating adverse effects on significant indigenous flora and indigenous fauna.

#### Decision sought

##### 12.1.4 Restricted discretionary activities: Resource consent required

Except as provided for by Rule 12.1.2.3, the taking and use of surface water from any lake or river which has already been delivered to that lake or river for the purpose of this subsequent taking is a *restricted discretionary* activity.

In considering any resource consent for the taking and use of water in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:

- (a) The amount of water which can be taken, having regard to the amount delivered to the lake or river and any losses that may have occurred between the point of augmentation and the take; and .....
- (f) The review of conditions of the resource consent:  
and
- (g) Any need to avoid, remedy or mitigate any adverse effect on significant indigenous flora and/or habitats of significant fauna.

3. The D-G requests that the following amendments be made to Rule 12.1.4.8, so that
  - a) The amount of water to be taken and used is linked to its stated use;  
and
  - b) Consideration is given to avoiding, remedying or mitigating adverse effects on fish spawning sites and on the natural character of waterways.

Decision sought

12.1.4.8 Restricted discretionary activity considerations  
In considering any resource consent for the taking and use of surface water in terms of Rules 12.1.4.2 to 12.1.4.7, the Otago Regional Council will restrict the exercise of its discretion to the following:

(a)(i) The amount of water to be taken and used and the stated use; and

(xxv) Any need to locate the intake so to avoid adverse effect on fish spawning sites;

(xxvi) The natural character of any affected water body

4. The D-G requests the following amendment be made to Rule 12.2.3.2.A, so to give effect to the proposed NES and to reduce the risk of over allocation of some Otago aquifers.

Decision sought

12.2.3.2A Except as provided for by 12.2.3.1A, the taking of groundwater from any point 100 metres or more from any perennial surface water body, and the use of that groundwater, is a restricted discretionary activity, if:

(a) The volume sought is within:

(i) The available allocation volume identified in Schedule 4A; or

(ii) 5035% of the calculated mean annual recharge for any aquifer not specified in Schedule 4A; and .....

5. The D-G requests the following amendment to rule 12.2.3.4, so that
- a) The amount of water to be taken and used is linked to its stated use; and
  - b) Consideration is given to avoiding, remedying or mitigating adverse effects on the values listed.

Decision sought

12.2.3.4 Restricted discretionary activity considerations

In considering any resource consent for the taking and use of groundwater in terms of Rules ~~12.2.3.1, 12.2.3.2A and 12.2.3.3~~, the Otago Regional Council

will restrict the exercise of its discretion to the following:

(a)(i) The amount of water to be taken and used and the stated use; and

and

(xxii) Any impact on ecological and/or /recreational and/or cultural values

6. The D-G requests the following amendment be made to the fourth paragraph of "Principal reasons for adopting" (pg 62 of the Proposal), so to give effect to amendments the D-G has requested previously.

#### Decision sought

##### Principal reasons for adopting

Para 4- The taking and use of groundwater under Rules 12.2.2.1 and ~~12.2.2.3 to 12.2.2.6~~ will have no more than minor adverse effects on the aquifer from which the water is taken, any ~~connected surface water body wetland, lake or river~~ and the ecological, recreational and cultural values contained within these, or on any other person taking water. These rules are adopted to enable access to resources while providing protection for the existing consumptive uses of the groundwater.

## METHODS OTHER THAN RULES

1. The D-G requests the following amendment to Method 15.3.1 so that influence of land use activities on effective water utilisation are better publicised.

#### Decision sought

### 15.3 Information channels

#### 15.3.1 Provision of information about effective water utilisation

15.3.1.1 The Otago Regional Council will encourage the efficient use of water by providing information to water users concerning:

- (a) Avoidance of wasteful practices; and



- (b) Opportunities for water storage ~~during periods of high water availability;~~ and
- (c) Opportunities for water conservation in general and particularly during periods of low flows or drought; and
- (d) Water resources available for taking; and
- (e) The influence of land use activities on both water quality and water yield.

2. The D-G requests the following amendment to Method 15.3.1, Principal Reasons for Adopting, so to give effect to the amendment proposed in (1) above.

Decision sought

Principal reasons for adopting

This method is adopted to enable water users to make decisions that result in the more efficient use of water than is currently the case. The information provided through this method will ensure better targeting of water use in irrigation or industrial practices and will result in less demand on the water resource when availability is low. It will also make users aware of the influence of land use activities on both water quality and water yield.

3. The D-G requests the inclusion of the following method, so that the Otago Regional Council better meets its Resource Management Act Section 30 functions.

Decision sought

**15.10 Future Policy Development**

The Otago Regional Council shall, within either its 2009/2010 or 2010/2011 Annual Plan, commit to developing effective policy instruments for the purpose of controlling the use of land for the purpose of:

- (i) Soil conservation:
- (ii) The maintenance and enhancement of the quality of water in water bodies:
- (iii) The maintenance of the quantity of water in water bodies:
- (iiia) the maintenance and enhancement of ecosystems in water bodies:
- (iv) The avoidance or mitigation of natural hazards.

## GLOSSARY

1. The D-G requests that the following definitions be added to the Glossary, so that the “reasonable needs of an individual’s animals for drinking water and/or stock drinking use” are better defined. This will enable the “quantity of water required for the intended purpose of use” (refer rules 12.1.4.8 and 12.2.3.4) to be more accurately determined.

### Decision sought

Reasonable needs of an individual’s animals for drinking water (refer Farm Technical Manual; Lincoln University, 1991)

	Litres/head- day
Dairy cattle- in lactation	70
Dairy cattle- dry	45
Beef cattle	45
Calves	25
Horses- working	55
Horses- grazing	35
Breeding ewes	3
Sows	25
Pigs	11
Poultry- per 100 birds per day	30
Turkeys- per 100 birds per day	55

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**OTAGO REGIONAL COUNCIL – PROPOSED PLAN CHANGE  
TO REGIONAL PLAN: WATER FOR OTAGO  
SUBMISSION BY OCEANA GOLD (NEW ZEALAND) LIMITED**

OTAGO REGIONAL COUNCIL  
RECEIVED DUNEDIN  
03 MAR 2009  
FILE No. *RI24*  
DIR TO *MAR-3V*

**SUBMISSION ON PROPOSED PLAN CHANGE 1C (WATER ALLOCATION AND USE)**

<b>PARTS OF THE PROPOSED PLAN THAT SUBMISSION RELATES TO</b>	<b>OUR SUBMISSION IS</b>	<b>WE WOULD LIKE TO SEEK THE FOLLOWING DECISION FROM THE OTAGO REGIONAL COUNCIL</b>
<p>Issue 6.2.3, Explanation paragraph (a)</p>	<p>OceanaGold opposes this provision in part.</p> <p>Point (a) appears to place the same emphasis on "leakage" as it places on "evaporation". While OceanaGold agrees that water lost through deliberate leakages could avert water wastage, evaporation on the other hand is a natural phenomenon where water is present in the open. By using this example it could create an expectation that water evaporation needs to be prevented. This could be a costly exercise for all water users.</p>	<p>That "evaporation" not being used as an example of inefficient or inappropriate use of water.</p>
<p>Policy 6.4.0B page 7</p>	<p>OceanaGold conditionally supports this policy, with the reservations set out below:</p> <p>While OceanaGold supports the concept of shared use and management of water in reality it may be unworkable, therefore it is important it be a voluntary arrangement in all respects, with no disadvantage to consent holders or applicants that chose not to participate.</p> <p>One risk is that for instance the majority of the group (eg farmers) may perceive that their activities are of more importance than that of another member (eg mining) and can then lobby that the water allocation be weighed heavier on their side. This could lead to some users experiencing gains at the expense of other users. For this reason, it may be necessary to promote that such groups are best formed industry by industry</p>	<p>The wording of the policy or explanation should make it explicit that such shared use and management groups are voluntary, and that any member that has opted into a group, may also opt out.</p> <p>That the wording of the policy or explanation make it clear Council will be open to assisting such groups, and aid in the controlling and steering of the group dynamics to ensure</p>

	<p>Another risk may be that there can be perceived disadvantages if such a group is unable to work together for the same goal.</p> <p>However, as noted in respect of Policy 6.6.0 shared infrastructure may have some benefits.</p>	<p>proper and fair process.</p> <p>That the wording of the policy or explanation be amended to ensure that an applicant or consent holder that is not in such a group, is not disadvantaged.</p>
<p>Policy 6.4.0C page 8</p>	<p>OceanaGold opposes this policy</p> <p>OceanaGold has done intensive studies into the water resources within its area of operation as well as the suitability of using alternative sources. It is concerned that there may be a risk that if priority is given to local water users it would be unable to source sufficient water for its operations, from the Tateri catchment.</p> <p>The additional costs associated with further investigations into alternative water sources, and/or the implementation of new water supply infrastructure are prohibitive and would potentially prevent further expansion of the project.</p>	<p>That an explicit exemption be included in the policy and explanation, to ensure that existing users of water that is taken from another catchment, are not disadvantaged, if it would be otherwise prohibitive for such users to find an alternative water source closer to their existing activity.</p> <p>Alternatively, delete this policy.</p>
<p>Policy 6.6.0 page 23</p>	<p>OceanaGold conditionally supports this policy.</p> <p>While OceanaGold supports the Council's policy to promote and support the development of shared water infrastructure it is of the opinion that not only urban water supplies, community domestic supplies, multi-property irrigation supplies would benefit from this but also all local industrial and commercial users.</p>	<p>That wording be added to the explanation to allow for the possibility of industrial and commercial users being possible participants in such shared water infrastructure developments.</p>
<p>16.3.1 clauses 4A, 4B, 5A page 68</p>	<p>OceanaGold conditionally supports this policy, with the reservations set out below.</p> <p>OceanaGold supports the necessity for an extensive and exhaustive list of information requirements to be supplied with various application types. This will hopefully avoid the need for Council to have to seek information in instalments. However, it is of the opinion that most of the additional information should</p>	<p>That an additional provision be added clarifying that where information and records are already held by the Council, the applicant need only cross reference to the relevant documents, rather than providing a duplicate set.</p>

already be available to Council in the Council's records and should be made available to all potential resource consent applicants.	
---	--

Oceana Gold wishes to be heard in support of its submission.



---

Maree Baker  
Counsel for Oceana Gold

Date: 9 March 2009

Address for Service

Otago House, Cnr Moray Place and Princes Street,  
Private Bag 1959, Dunedin  
Telephone: 03 4715447  
Fax/Email: 03 477 3184  
maree.baker@andersonlloyd.co.nz  
Contact Person: M A Baker





**SUBMISSION FORM**  
**Proposed Plan Change 1C Water Allocation and Use**  
**to the Regional Plan: Water for Otago**  
*Form 5, Clause 6 of the First Schedule, Resource Management Act 1991.*

50  
 Office use only

Full name of submitter: CENTRAL OTAGO DISTRICT COUNCIL

Name of organisation (if applicable): .....

Postal address: P O Box 122  
ALEXANDRA

Telephone: (03) 440 0646

Postcode: .....

Fax: (03) 440 0606

Email: Jonathan.gadd@rodc.govt.nz

OTAGO REGIONAL COUNCIL  
 RECEIVED-DUNEDIN  
 09 MAR 2009  
 FILE No. RJ241  
 DIR TO: M2830

I wish  do not wish (circle preference) to be heard in support of my submission.

If others made a similar submission, I will consider presenting a joint case with them at a hearing.  
 (Cross out if you would not consider presenting a joint case).

Signature of submitter: [Signature]

Date: 9/3/09

Please note that all submissions are made available for public inspection.

**The parts of the proposed plan change that my submission relates to are:**

(Give clear references if possible e.g. reference number, policy x, rule y)

PLEASE REFER ATTACHMENT.

**My submission is:**

(Include whether you support, oppose, or wish to have amended the parts identified above, and give reasons)







**Central Otago District Council submission to ORC Plan Change 1C (Water Allocation and Use)**

**Overarching Comments**

Central Otago District Council broadly supports the intentions of Plan Change 1C.

- It endorses the move to community based and managed solutions as opposed to individual consents and one-on-one administration by the ORC.
- It also endorses the encouragement of group consents that may cover a number of water sources.
- Water is water, and the consideration and connectedness of both surface and ground water impacts is appropriate.

It has little to comment on in the specific area of takes as this is detail that it has little ability to judge.

However, we have some concerns that several of the intentions are poorly defined and far too open to interpretation or confusion. This includes:

- What is defined as local?
- How is efficiency of water use determined?
- Similarly, what is wastage?

For example, if the proposed policy change refers specifically to such things as “economic, social, environmental and cultural costs and benefits” it should give some indication of what that actually means and how it should be measured. As it supports the inclusion of such considerations, Central Otago District Council hopes that such examples of inadequate definition will be resolved. This may require ORC to invest in developing cost-benefit tools.

**Comments and recommendations specific to Sections of the Plan Change:**

1. 6.1 Intro	<p>Paragraph 1 of Section 6 lists water applications but omits the use of water for frost fighting.</p> <p><b><u>Recommendation 1</u></b>  <b>Include frost fighting as a recognised use of water in the introduction and where appropriate in the body of the document.</b></p>
2. 6.4.0	<p>Agree that there needs to be adequate understanding of the hydrological characteristics of potential (and existing) sources.</p> <ul style="list-style-type: none"> <li>◦ How is that determined?</li> <li>◦ What measurement over what period?</li> <li>◦ Is the intention to use statistical process control methods to set levels?</li> </ul> <p><b><u>Recommendation 2</u></b>  <b>Include details of determination of hydrological characteristics (including length of measurement).</b></p>
3. 6.4.0A (b)	<p>How does efficiency of water transportation and waste avoidance affect residential reticulation? Has this been considered?</p>

	<p><b><u>Recommendation 3</u></b>  <b>Refer recommendation 10; to consider current and potential future residential demands.</b></p>
<p>4. 6.4.0A (c)</p>	<p>Agree that water application methods should be efficient, however, raise the following points:</p> <ul style="list-style-type: none"> <li>◦ How is efficient use determined? From a commercial perspective, water use efficiency should be determined from the value derived per unit of water. Application method may not be relevant. Does ORC intend this and if so, has it got the tools in place to calculate this? What is "value"?</li> <li>◦ The proposed text seems to imply that an efficient water use is one that benefits the most people. This is well and good, but it means that ORC must make a call on local vs. regional vs. national benefits. For example, viticulture has locally based processing. Other forms of production have more processing outside the immediate area (for example, sheep, beef and dairy farming). Hydro power generation brings huge benefits to shareholders both nationally and internationally. Should viticulture, as the use that may have the most direct and indirect GDP and employment to Otago per volume of water be the preferred use? Is that what you intend?</li> <li>◦ As indicated by the move to dairy there is already a financial imperative towards efficiency of water use. Land prices are closely linked to land use, which is driven by access to and certainly of water supply.</li> <li>◦ How can ORC make a call on what efficient uses will be in the future?</li> </ul> <p><b><u>Recommendation 4</u></b>  <b>Either remove the recommendation on water use efficiency or (preferred) develop mechanisms to measure this in a way that supports the intention of this being a plan that considers economic and community prosperity.</b></p>
<p>5. 6.4.0B</p>	<p>Endorse the intention to promote shared use.</p> <ul style="list-style-type: none"> <li>◦ The process to encourage and support these shared approaches needs to be as clear as possible. Community groups may struggle to realise this vision without guidance and (potentially) material support.</li> <li>◦ This process has the potential to be destructive to some communities if they do not have the support to manage the transition.</li> <li>◦ ORC should explicitly state the potential nature of its support. This should include a key role in working with the community and facilitating or leading where required to achieve a good outcome.</li> </ul> <p><b><u>Recommendation 5a</u></b>  <b>ORC Plan to state the manner and practical means by which it will encourage the development of shared use schemes.</b></p>

	<ul style="list-style-type: none"> <li>• Central Otago District Council is of the opinion that a key component of the success of “community” schemes is the early and meaningful engagement with a wide range of community interests and groups. CODC believes that the best outcomes will be achieved when there is real community engagement and all views are heard and considered.</li> <li>• This might be addressed in 6.4.0B or as a new section.</li> <li>• The advantage will be in the consenting process and will lead to lower cost solutions if done with good intentions.</li> </ul> <p><b><u>Recommendation 5b</u></b>  <b>ORC Plan to actively encourage the engagement of all community views in the development of shared use and management of water.</b></p>
6. 6.4.0C	<p>Central Otago District Council has concerns that this section may not adequately address the needs of residential or community water supply.</p> <ul style="list-style-type: none"> <li>• Council may be constrained in upgrading or obtaining new supplies of water for residential use.</li> </ul> <p><b><u>Recommendation 6</u></b>  <b>As per Recommendation 10; ORC Plan to make reference to current and future potential residential and community supply.</b></p>
7. 6.4.0C	<p>What is meant by local?</p> <ul style="list-style-type: none"> <li>• For example, while it may be hard to argue that a user of the Clutha/Mata-Au in Tarras is local to one in Beaumont, there may be clear inter-dependencies between users on the Manuherikia, where what an upstream user does has huge implications along the whole length of the river.</li> <li>• Therefore, the definition of local needs to have some component recognising a direct inter-linkedness.</li> <li>• It may be easier to define “Non-local” as being communities or users where there is no inter-linkedness of use.</li> </ul> <p><b><u>Recommendation 7</u></b>  <b>ORC Policy to clearly define local vs. non local users based on the impact of takes.</b></p>
8. 6.4.0C (d)	<p>What measures will be used to determine the economic, social, environmental and cultural costs and benefits?</p> <ul style="list-style-type: none"> <li>• There needs to be standard methodologies to determine this and these must be acceptable to all parties (or at least, accepted by the arbiters of the process).</li> <li>• Without systems to determine cost / benefits this is words without substance.</li> </ul> <p><b><u>Recommendation 8</u></b>  <b>Link to recommendation 4; ORC to specify meaningful measures to determine the economic, social, environmental and cultural costs and benefits.</b></p> <p>Central Otago District Council has given some consideration</p>

	to how this might be achieved and could be interested in working with ORC to achieve this.
9. 6.4.2A	<p>Agree that consent should only be granted on actual historical take where the applicant is looking to renew to that amount. Endeavour that applications for additional take be considered for supplementary status or from a new source.</p> <ul style="list-style-type: none"> <li>Allocation and use should, where practical, be the same. The argument for efficiency of water use should counter users "wasting" surplus or un-needed water; however this again argues that definitions of efficiency of water use be carefully considered. This should not be based on ad hoc assessment by ORC staff.</li> </ul> <p><b><u>Recommendation 9</u></b>  <b>ORC to support 6.4.2A with consistent measures of water use efficiency based on economic, environmental and community outcomes.</b></p>
10. 6.4.2A	<p>Will residential / community supplies be considered or affected by this?</p> <p>11. Central Otago District Council believes that existing and future demand for drinking / residential supplies must be recognised.</p> <p><b><u>Recommendation 10</u></b>  <b>The plan change to recognise current and potential demands for community or residential supply.</b></p> <p>There would need to be limits on what is considered as community or residential supply, as this cannot be a limitless demand.</p>
11. 6.4.12A	<p>Central Otago District Council supports the appointment of water management groups with roles and purpose as defined.</p> <p><b><u>Recommendation 11</u></b>  <b>Encourage the establishment of representative water management groups with clearly defined roles and purpose.</b></p>