

Proposed Plan Change 1B (Minimum Flows)

- **Waianakarua River**
 - **Trotters Creek**
 - **Luggate Creek**
 - **Schedule 2D**

Regional Plan: Water for Otago

Introduction

The Otago Regional Council has prepared Proposed Plan Change 1B (Minimum Flows) to the Regional Plan: Water for Otago, to identify matters that may be considered when setting minimum flows and allocation limits, and to establish minimum flows and primary allocation limits for the Waianakarua, Trotters and Luggate catchments. This marked-up version of Proposed Plan Change 1B (Minimum Flows) sets out the changes proposed and should be read in conjunction with the Regional Plan: Water for Otago. The accompanying Section 32 Report (considering alternatives, benefits and costs) and Table of Proposed Changes (which provides a reference number for each change) are also available.

Any person may make a submission on Proposed Plan Change 1B (Minimum Flows) to the Regional Plan: Water for Otago. You may do so by sending a written submission to the Otago Regional Council. The submission must be in Form 5, as prescribed by the Resource Management (Forms, Fees, and Procedure) Regulations 2003. Copies of this form are available by phoning the Council on 0800 474 082, or can be found on our website www.orc.govt.nz. Submissions may also be made online via the website.

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Submissions close at 5pm on 9 March 2009.

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Chapter, schedule and map headings relate to those in the operative Regional Plan: Water for Otago

Proposed additions to the Water Plan are shown as underlined and proposed deletions are shown as ~~struck-out~~. Proposed Plan Change 1C (Water Allocation and Use) may lead to further consequential amendments.

6.4 Policies applying to the taking of water

6.4.5 The minimum flows established by Policies 6.4.3, 6.4.4, 6.4.6, 6.4.9 and 6.4.10 will apply to resource consents for the taking of water, as follows:

- (a) **In the case of new takes applied for after 28 February 1998, upon granting of the consent; and**
- (b) **In the case of any resource consent to take surface water from within the Taieri above Paerau and between Sutton and Outram, Shag, Kakanui, Water of Leith, Lake Hayes, Waitahuna, Trotters, Waianakarua and Lake Tuakitoto catchment areas as defined in Schedule 2A, ~~upon the operative date of this Plan~~ subject to the review of consent conditions under Sections 128 to 132 of the Resource Management Act; and**
- (c) **In the case of any existing resource consent to take surface water from the Luggate catchment area, Manuherikia catchment area (upstream of Ophir) and the Taieri catchment areas Paerau to Waipiata and Waipiata to Sutton, as defined in Schedule 2A, upon collective review of consent conditions within those catchments under Sections 128 to 132 of the Resource Management Act; and**
- (d) **In the case of any existing resource consent to take surface water within a catchment area not specified in Schedule 2A, upon the establishment of a minimum flow set for the water body by a plan change, subject to the review of consent conditions under Sections 128 to 132 of the Resource Management Act.**

Explanation

This policy provides for the application of minimum flows to consents as follows:

1. New takes are subject to minimum flow provisions when the consent is granted.
2. For resource consents to take from rivers within catchments specified in Schedule 2A, except for the Luggate, Manuherikia (upstream of Ophir) and the Taieri between Paerau and Waipiata, and between Waipiata and Sutton, the minimum flow provisions apply ~~from the operative date of the Plan~~, subject to the review of consent conditions under Sections 128 to 132 of the RMA.
3. For the Luggate, Manuherikia (upstream of Ophir) and the Taieri between Paerau and Waipiata, and between Waipiata and Sutton, the minimum flows will not apply until after a collective review of the consents in the catchments. This will occur before 2021 if there is agreement by the holders of mining privileges (deemed permits) to adhere to the minimum flows, or on the expiry of the mining privileges on 2 October 2021. Where environmental benefit will result from applying minimum flows to any resource consents (other than deemed permits) in these catchments, the review of those resource consent conditions may also occur earlier.
4. For resource consents to take from rivers within catchments not specified in Schedule 2A, the minimum flow provisions will apply from the operative date of a plan change setting the minimum flow for the river, subject to the review of consent conditions under Sections 128 to 132 of the RMA.

Reviews under Section 128 of the Resource Management Act will be undertaken simultaneously on all reviewable takes within each catchment, in the interests of equity.

In the case of mining privileges in respect of water (deemed permits, see Appendix 2) the Resource Management Act provides for their continuation without restriction, unless compensation is made, until they expire in 2021. However, arrangements for the conversion of such permits to resource consents may be developed before that time. Alternatively, arrangements for voluntary adherence by deemed permit holders to the minimum flows may occur. Under voluntary arrangements, or conversion of deemed permits to resource consents, or in 2021, these resource consents or deemed permits will become subject to the minimum flows established by this Plan.

The process of consent review must be completed by 2 October 2021, allowing coordination with the review of any deemed permits that may be operating in an area.

Principal reasons for adopting

This policy is adopted to enable the minimum flow provisions of the Plan to be applied as soon as practicable to existing resource consents to take water.

In the Luggate catchment area, Manuherikia catchment area (upstream of Ophir) and Taieri catchment areas between Paerau and Waipiata, and between Waipiata and Sutton, there is a very high proportion of mining privileges. Therefore the application of minimum flows to resource consents may be timed to coincide with their application to deemed permits (either through voluntary methods or in 2021). Where environmental benefit will result from applying minimum flows to any resource consents (other than deemed permits) in these catchments, the review of those resource consent conditions may also occur earlier.

In unscheduled catchments the minimum flows, once established and set by a plan change, will be applied to the reviewable consents in those catchments.

This will ensure that restricting water takes will result in actual environmental benefits.

12.1 The taking of surface water

12.1.4 Restricted discretionary activities: Resource consent required

- 12.1.4.2** Taking of surface water as primary allocation in the following Schedule 2A catchment areas:
Lake Hayes (Map B1),
Shag (Map B3),
Trotters (Map B3),
Waianakarua (Map B3),
Taieri Catchment upstream of Paerau (Map B4),
Taieri Catchment Sutton to Outram (Maps B4 and B5),
Water of Leith (Map B5),
Waitahuna (Map B5), and
Lake Tuakitoto (Map B5):

[Remainder of rule unchanged]

- 12.1.4.3** *[Unchanged]*

- 12.1.4.4** Taking of surface water as primary allocation applied for prior to 28 February 1998 in the following Schedule 2A catchments:
Luggate Catchment (Map B1a),
Manuherikia Catchment Upstream of Ophir (Maps B2 and B4),
Taieri Catchment Paerau to Waipiata (Maps B2 and B4), and
Taieri Catchment Waipiata to Sutton (Maps B3 and B4):

- (i) This rule applies to the taking of surface water, as primary allocation, in the above catchment areas, if the taking was the subject of a resource consent or other authority:
- (a) Granted before 28 February 1998, or
 - (b) Granted after 28 February 1998, but was applied for prior to 28 February 1998; or
 - (c) Granted to replace a resource consent or authority of the kind referred to in paragraph (a) or (b).
- (ii) The taking of surface water to which this rule applies is a **restricted discretionary** activity. The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.1.4.8.
- (iii) The minimum flows set out in Schedule 2A of this Plan for the above catchments shall affect the exercise of every resource consent or other authority, of the kind referred to in paragraph (i) of this rule, in the Luggate catchment area, Manuherikia catchment area (upstream of Ophir) and Taieri catchment areas Paerau to Waipiata and Waipiata to Sutton, upon review of consent conditions.

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

- (iv) The conditions of all such consents will be reviewed by the Otago Regional Council under Sections 128 to 132 of the Act to enable the minimum flows set by Schedule 2A to be met, the volume and rate of take to be measured in accordance with Policy 6.4.16 and the taking to be subject to Rule 12.1.4.9.
- (v) The minimum flows set in Schedule 2A for the Luggate catchment area, Manuherikia catchment area (upstream of Ophir) and Taieri catchment areas Paerau to Waipiata and Waipiata to Sutton, shall not apply to any consents referred to in clause (i), paragraphs (a) to (c) of this rule until the review of consent conditions set out in clause (iv) of this rule occurs.

SCHEDULE 2: SPECIFIED RESTRICTIONS ON THE EXERCISE OF PERMITS TO TAKE SURFACE WATER

2 Schedule of specified restrictions on the exercise of permits to take surface water

2A Schedule of specific minimum flows for primary allocation takes in accordance with Policy 6.4.3, and primary allocation limits in accordance with Policy 6.4.2(a)(i)

[Unchanged, except for the addition of the following to the table:]

Catchment See Maps B1-B5	Monitoring Site (with MS number) See Maps B1-B5	Minimum flow (litres per second)	Primary Allocation Limits in accord with Policy 6.4.2(a)(i)
<u>Luggate catchment</u>	<u>SH6 Bridge (MS 11)</u>	<u>180 (November to April)</u> <u>500 (May to October)</u>	<u>500 litres/sec</u> <u>Luggate catchment</u> <u>from mouth to</u> <u>headwaters</u>
<u>Trotters catchment</u>	<u>Mathesons Weir (MS 12)</u>	<u>8 (October to April)</u> <u>35 (May to September)</u>	<u>30 litres/sec</u> <u>Trotters catchment</u> <u>from mouth to</u> <u>headwaters</u>
<u>Waianakarua catchment</u>	<u>Browns Pump (MS 13)</u>	<u>200 (October to April)</u> <u>400 (May to September)</u>	<u>190 litres/sec</u> <u>Waianakarua</u> <u>catchment from</u> <u>mouth to headwaters</u>

2D Schedule of matters to be considered when setting minimum flows and allocation limits

Primary allocation limits and minimum flows will be added to Schedule 2A through the plan change process. The lists in 2D.1 and 2D.2 identify the matters to which consideration may be given when setting these flows and limits.

2D.1 When setting minimum flows in Schedule 2A for a catchment, consideration may be given to the following matters:

- (a) Any existing or previous minimum flow regime or residual flow;**
- (b) The 7-day mean annual low flow;**
- (c) Interaction among water bodies;**
- (d) Ecological values, including the need for flow variability;**
- (e) Demand for water, including community water supplies;**
- (f) Environmental, social, cultural, recreational and economic costs and benefits of taking and using water;**
- (g) Any other relevant matter in giving effect to Part 2 of the Resource Management Act.**

2D.2 When setting primary allocation limits in Schedule 2A for a catchment, consideration may be given to the following matters:

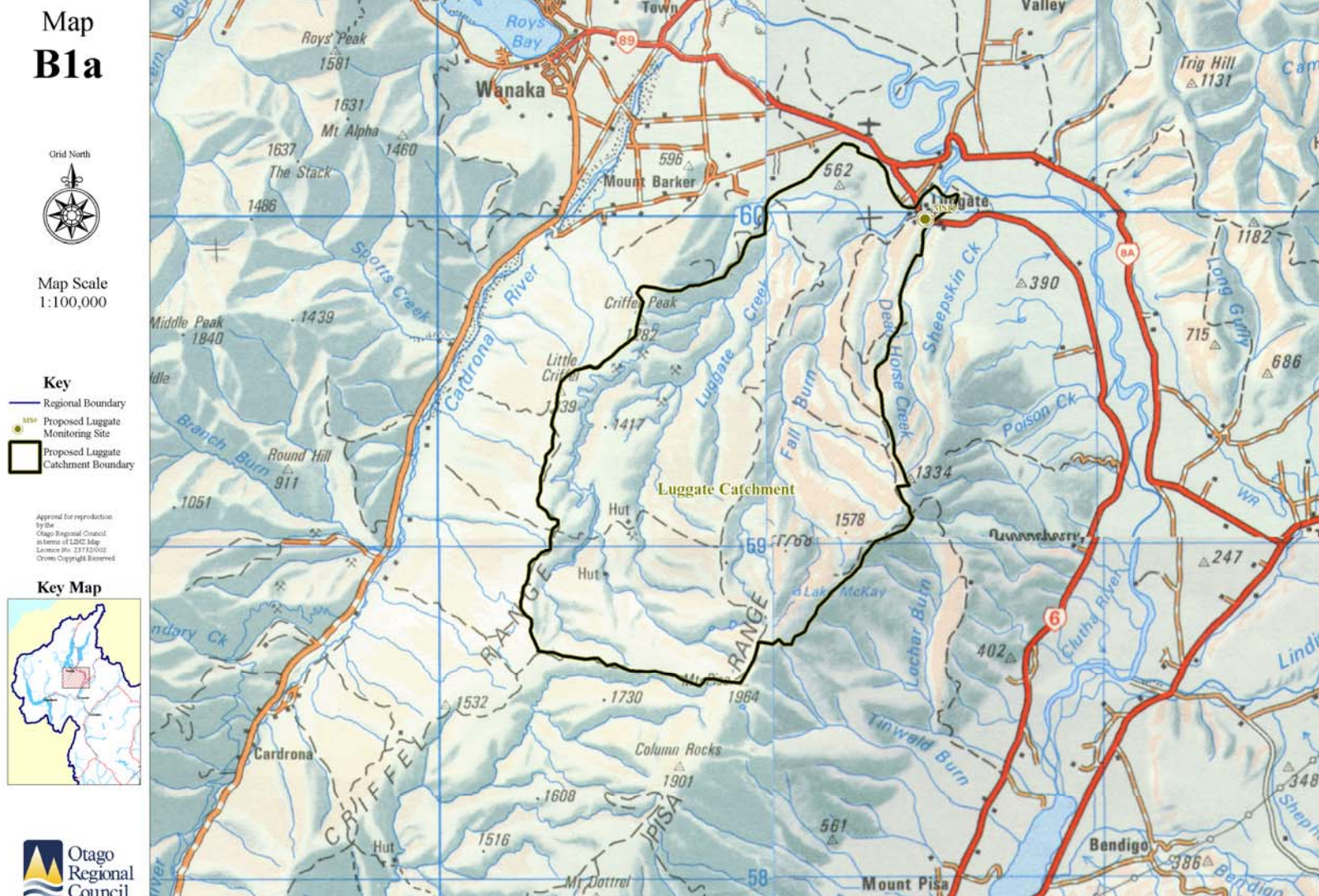
- (a) Any existing or previous primary allocation limit;**
- (b) The amount of water currently taken as primary allocation;**
- (c) The 7-day mean annual low flow;**
- (d) The proposed minimum flow regime;**
- (e) Possible sources of water;**
- (f) Acceptable duration and frequency of rationing among consented water users; and**
- (g) Social and economic benefits of taking water.**

Note: For catchments outside Schedule 2A, refer to Policy 6.4.4 for determining minimum flows and Policy 6.4.2 for identification of primary allocation.

Maps Section B: Proposed maps for Luggate, Trotters and Waianakarua catchments

1: Proposed new Map B1a

Minimum Flow Catchment Boundaries and Monitoring Sites



2: Proposed change to Map B3

Minimum Flow Catchment Boundaries and Monitoring Sites



Consequential and minor changes

Operative Plan Provision	Operative Plan Page number	Detail of consequential or minor change								
Page numbers	All pages	<i>Change page numbers.</i>								
Footer	All pages	<i>Change each footer to read:</i> Regional Plan: Water for Otago (Updated to 1 September 2006 <date to be inserted>)								
Title page	Page i	<i>Change the date to read:</i> Updated to 1 September 2006 <date to be inserted>								
New ISBN number	Page i (for Plan) Index (for Maps)	<i>Change the ISBN numbers to read:</i> ISBN 1-877265-29-2 <New ISBN numbers to be obtained and inserted> ISBN 1-877265-30-6 <New ISBN numbers to be obtained and inserted>								
Table of Key Events	Page iv	<i>Add the following to the end of the table:</i> <table border="1" data-bbox="757 917 2128 1109"> <thead> <tr> <th>Key event</th> <th>Date notified</th> <th>Date decisions released</th> <th>Date operative</th> </tr> </thead> <tbody> <tr> <td><u>Plan Change 1B (Minimum Flows) to the Regional Plan: Water</u></td> <td><u>20 December 2008</u></td> <td><u><Date to be inserted></u></td> <td><u><Date to be inserted></u></td> </tr> </tbody> </table>	Key event	Date notified	Date decisions released	Date operative	<u>Plan Change 1B (Minimum Flows) to the Regional Plan: Water</u>	<u>20 December 2008</u>	<u><Date to be inserted></u>	<u><Date to be inserted></u>
Key event	Date notified	Date decisions released	Date operative							
<u>Plan Change 1B (Minimum Flows) to the Regional Plan: Water</u>	<u>20 December 2008</u>	<u><Date to be inserted></u>	<u><Date to be inserted></u>							

Operative Plan Provision	Operative Plan Page number	Detail of consequential or minor change
Table of Contents	Pages vi–xi	<i>Change page numbers.</i>
Table of Contents	Page ix	<p><i>Add the following:</i></p> <p><u>2D Matters to be considered when setting minimum flows and allocation limits ..<page number to be inserted></u></p>
Note under Rule 12.1.4.5	Page 172	<p><i>Note: If a minimum flow has been determined for a catchment previously not listed in Schedule 2A, and that minimum flow has been set by a plan change, the catchment will then be listed in Schedule 2A and Rule 12.1.4.2 or Rule 12.1.4.4 will apply.</i></p>
Rule 12.1.4.6	Pages 172–173	<p>12.1.4.6 Taking of surface water as a new primary allocation take in catchment areas not listed in Schedule 2A and not in Welcome Creek:</p> <p>(i) This rule applies to the taking of surface water as primary allocation in catchment areas not listed in Schedule 2A, and not subject to Rule 12.1.4.5.</p> <p>(ii) The taking of surface water to which this rule applies is a restricted discretionary activity. The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.1.4.8.</p> <p>(iiA) The taking of surface water in the <u>Waitaki catchment</u> to which this rule applies is a restricted discretionary activity provided that by itself or in combination with any other take, use, dam, or diversions, the sum of the <u>annual volumes</u> authorised by resource consent, does not exceed the allocation to activities set out in Table 12.1.4.4A. The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.1.4.8.</p> <p>(iii) Minimum flows for catchments not listed in Schedule 2A will be set on a case-by-case basis such that any minimum flow set will allow the taking of water, while providing for the aquatic ecosystems and natural character of the catchment water bodies and the taking to be subject to Rule 12.1.4.9.</p> <p>(iv) The minimum flows set on a case-by-case basis will continue to apply until investigations have established the appropriate minimum flow. The new minimum flow will be added to Schedule 2A by a plan change and Rule 12.1.4.2 or Rule 12.1.4.4 will then apply.</p>

Operative Plan Provision	Operative Plan Page number	Detail of consequential or minor change
<p>Schedule 2 Specified restrictions on permits to take surface water</p>	<p>Page 331</p>	<p>3 Schedule of specified restrictions on the exercise of permits to take surface water This schedule provides specified minimum flows applying to the taking of surface water within primary allocation from catchments identified in Maps B1 to B5. The first supplementary water allocations and minimum flows for takes from the Kakanui catchment are also provided for. The schedule should be read in conjunction with the policies contained in section 6.4.</p> <p>Schedule 2A specifies minimum flows that apply to the primary allocation water taken from the Shag, Kakanui, Water of Leith, Taieri, Lake Hayes, Manuherikia, Waitahuna, <u>Waianakarua</u>, <u>Trotters</u>, <u>Luggate</u> and Lake Tuakitoto catchments, as mapped in B1 to B5.</p> <p>The last column of Schedule 2A also specifies the primary allocation limit in accordance with Policy 6.4.2(a)(i) for the whole catchments of the rivers and lakes. The catchment areas for the primary allocation limits set by Policy 6.4.2(a)(i) may be larger than those specified on Maps B1 to B5.</p> <p>Schedule 2B provides the first supplementary allocations for the Kakanui catchment. Further supplementary allocation may be granted under Policies 6.4.9 and 6.4.10.</p> <p>The minimum flows in this schedule were able to be established because there are monitoring sites for these catchments with adequate flow records, which have enabled the effects of taking on those flows to be determined.</p> <p>Schedule 2 identifies minimum flows in litres per second and the site at which flows will be monitored. When the minimum flow is reached, consents to take water from the identified catchment will cease or will be suspended by the Otago Regional Council, in accordance with Policy 6.4.11 of this Plan.</p> <p>The flows listed in Schedule 2, which trigger suspension, use the instantaneous flow rates.</p> <p><u>Schedule 2D identifies matters to be considered when making additions to these schedules through a plan change.</u></p>

Operative Plan Provision	Operative Plan Page number	Detail of consequential or minor change
Schedule 2A Specific minimum flows for primary allocation takes in accordance with Policy 6.4.3, and primary allocation limits in accordance with Policy 6.4.2(a)(i)	Page 331	<p>2A Schedule of specific minimum flows for primary allocation takes in accordance with Policy 6.4.3, and primary allocation limits in accordance with Policy 6.4.2(a)(i)</p> <p>The following schedule:</p> <ol style="list-style-type: none"> 1. Identifies the minimum flows that apply to the taking of surface water within primary allocation from the catchments shown in Maps B1 to B5. Maps B1–B5 identify the location of catchment area boundaries and numbered monitoring sites referred to in the schedule for setting and measuring the minimum flows. 2. Specifies the primary allocation limit in accordance with Policy 6.4.2(a)(i). That limit is exceeded in catchments where the consented takes as at 28 February 1998 set a higher limit in accordance with Policy 6.4.2(a)(ii). The catchments in which the limit set by Policy 6.4.2(a)(i) is exceeded by Policy 6.4.2(a)(ii) are the Shag, Kakanui, Taieri, Lake Hayes, <u>Luggate</u> and Manuherikia.
Map B Index	Not applicable	<p><i>Add the Waianakarua, Trotters and Luggate catchment boundaries to Map B Index (see Attachment 3).</i></p> <p><i>Change the date to read:</i></p> <p>Updated to 1 September 2006 <date to be inserted></p>
Map B3	Not applicable	<p><i>Change the date to read:</i></p> <p>Updated to 1 September 2006 <date to be inserted></p>

Attachment 3: Consequential change to Map B Index

