



OTAGO REGIONAL COUNCIL  
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Otago Regional Council  
Private Bag 1954  
Dunedin 9054

Submission Form -  
Form Name: Proposed Plan  
Change 2  
Application ID: ORCNDFCH1/20  
Application Date: July 29, 2011  
Applicant Name: Mike Kelly  
Application Status: New

ORCNDFCH1

**Submission Form - Proposed Plan Change 2**

**(Regionally Significant Wetlands)**

**to the Regional Plan: Water for Otago**

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

**SUBMITTER DETAILS**

**1A** Contact details: \*

Name: Mike Kelly  
Address: 414 Galloway Road  
RD 3  
City: Alexandra 9393  
Phone: 03 448 8389  
Email: cush.mikekelly@slingshot.co.nz

**1B**

Organisation name (if applicable): (Galloway Irrigation Society Incorporated)  
Postcode: (PO Box 322, Alexandra, 9340)  
Fax no: ()

**1C** I wish to be heard in support of my submission:\*

Yes

**1D** If others made a similar submission, I will consider presenting a joint case with them at a hearing:\*

Yes

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

**Trade competitor's declaration**

(if applicable)

**1E** No (not checked) I could gain through trade competition from a submission, but my submission is limited to addressing adverse environmental effects directly impacting my business.

ORCNDFCH1

## Submission Form - Proposed Plan Change 2

### SUBMISSIONS MUST BE RECEIVED BY 5.00 PM FRIDAY 29 JULY 2011

**2A 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)*

Schedule 9 - Significant Wetland listing # 88

Request that the Lower Manorburn Dam margins (listing #88) is not classified as a Significant Wetland and is not included in Schedule 9 of Proposed Plan Change 2 .

**2B My submission is:**

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

This submission is on behalf of the Galloway Irrigation Society Incorporated hereon referred to as GIS.

The GIS is the holder of Deemed permit (2406A) to dam the Lower Manorburn Stream and to take water from the dam for the purpose of irrigation (WR2060).

Our submission is that the Lower Manorburn Dam should not be included in Schedule 9 as a Significant Wetland because it is an artificial dam that is currently operated to supply irrigation water to the Galloway community and it may not be possible to maintain any wetland values.

Only recently was it drawn to our attention that the Lower Manorbourn Dam was included in Schedule 10 of the existing ORC Water Plan. We understand that prior to Plan Change 2 the wetland values for wetlands in Schedule 10 have not been identified or described. The proposed Plan Change 2 does not describe any specific or significant wetland values of the Lower Manorburn dam that have contributed to the margins of the dam now being included in Schedule 9 of the Proposed Plan change 2

The Lower Manorburn Dam is an artificial lake created by the construction of the concrete arch dam in 1934. Since then the GIS has used the dam for storage and supply of irrigation water to its members.

Including the Lower Manorburn Dam margins as a significant wetland will make it difficult for the GIS to continue to use the dam for irrigation purposes and we therefore oppose the inclusion of the dam as a significant wetland in Proposed Plan Change 2 for the following reasons;

- Rule 12.1.1A.1 states that taking and using water from a significant wetland is a non-complying activity.
  - The Lower Manorburn Dam is not excluded from Rule 12.1.1A.1 by Rule 12.1.2.3 because Rule 12.3.2.1 and the prior "General Authorisation" refer to small dams. (ie. less than 3m in height , less than 20,000 m3 and less than 50 hectares upstream).
  - The GIS use of the dam lowers the water level in the dam during the irrigation season and therefore the GIS can not comply with the general regulation in Proposed Plan Change 2 that; "there is no change to the water level or hydrological function, or no damage to the flora, fauna or its habitat, in or on any regionally significant wetland".
- The significant wetland regulation will be problematic for other GIS activities involved with supplying irrigation water such as;
- maintenance on the dam wall,
  - construction of structures such as water level or flow measuring devices,
  - discharge of the top race into the dam for temporary storage.
  - maintaining an easement for a water race along the north side of the dam

**2C I seek the following decision from the local authority:**

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

Request that the Lower Manorburn Dam margins is not classified as a Significant Wetland and is not included in Schedule 9 of Proposed Plan Change 2 .

**2D Please upload any documents in support of your submission:**

[No files have been uploaded]

Click on **Finish** to send your submission to the Council.

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**SUBMISSION ON IN ACCORDANCE WITH THE FIRST SCHEDULE OF THE  
RESOURCE MANAGEMENT ACT 1991**

**To:** Planning Department  
Otago Regional Council  
Private Bay 1954  
**DUNEDIN 9054**

**Name:** OtagoNet Joint Venture ("OtagoNet")

**Address:** PO Box 1642  
**INVERCARGILL**  
(See different address for service)



**1. This is a submission in opposition to the following Plan Change in the Otago Region:**

Proposed Plan Change 2 (Regionally Significant Wetlands) to the Water Plan for Otago.

**2. This submission relates to all parts of the Plan Change.**

**3. OtagoNet's Interest in the Proposed Plan Change 2**

OtagoNet is an electricity lines business that conveys electricity throughout North, South, East, and part of Central Otago to approximately 14,768 customers on behalf of six energy retailers. OtagoNet is jointly owned by three entities: Marlborough Lines Limited (51%), Electricity Invercargill Limited (24.5%) and The Power Company Limited (24.5%), and managed by Powernet, which is an electricity lines management company.

OtagoNet's network covers three geographically distinct areas: south and west Otago from Lake Waihoia to Owaka and inland to Clinton; north Otago coast from Waitati to Shag Point; inland north Otago from Falls Dam south to Hindon. All areas are connected electrically, with the two northern areas being connected via a 33kV line over the Pig Root and the southern and northern MV networks connecting near Lake Mahinerangi.

The 2011-2021 Asset Management Plan provides details of OtagoNet's existing and proposed infrastructure. OtagoNet's principal assets are as follows:

- **Bulk supply assets and embedded generation**

These assets comprise the Balclutha Grid Exit Point (GXP); Naseby Grid Exist Point (GXP); Palmerston Grid Exit Point (GXP); Paerau generation

(injected into Ranfurly zone substation); Falls Dam generation (connected to the network at Oturehua).

- **Subtransmission Network**  
The subtransmission network comprises two electrically separate networks (**Appendix A**). The subtransmission network comprises 74km of 66kV lines and 538km of 33kV lines and cables. It is almost totally overhead and radial and includes a large number of lightly loaded zone substations.
- **Zone Substations**  
OtagoNet has 31 zone substations to transform High Voltage (HV) to Medium Voltage (MV), with a 66/33kV interconnecting station at Ranfurly. Zone substation transformers form the interface between OtagoNet's subtransmission and distribution networks. There are 15 distribution transformers supplied directly off the 33kV subtransmission network.
- **Distribution Network**  
The distribution network is radial in rural areas with little interconnection. There is a higher degree of interconnection between 11kV feeders in urban areas.
- **Distribution Substations**  
OtagoNet has 4177 distribution substations, supplying 14,768 customers. Most of these are pole-mounted (4033), with only 144 to ground. Distribution transformers form the interface between OtagoNet's 11kV distribution and Low Voltage (400/230V) networks.
- **Voltage Regulators**  
Eight voltage regulators control local voltage at Balmoral, Craiglynn, Dunback, Mahinerangi, Naseby, Redbank, Stoneburn and Tahakopa.
- **Low Voltage Network**  
OtagoNet's Low Voltage network is predominantly clustered around the distribution transformers. The Low Voltage network is radial with minimal meshing.
- **Customer Connection**  
OtagoNet has a range of customer connection types to serve a range of customer assets. In most cases the fuse forms the demarcation point between OtagoNet's network and the customer's assets at or near the physical boundary of the customer's property.

Most of OtagoNet's assets are in reasonable condition, but a significant length of lines need to be replaced in the period between 2011 and 2021. Overall, the

OtagoNet network has a 44% standard life remaining; OtagoNet's goal is to reduce the network closer to a 50% standard life by 2021.

Planned projects for the upcoming period will focus on 11kV lines renewals, as many of the 11kv lines across OtagoNet's network are at or nearing the end of their economic life. There is not a single area where the 11kv lines renewals will be focused, as it is various lines across the entire network that will require renewal. Please refer to **Appendix B** for a schematic of the 11kv distribution network. The Regionally Significant Wetlands identified in **Table 1** below are at or in close vicinity to the 11kv distribution network.

Against this background, OtagoNet has a vested interest in the classification of Regionally Significant Wetlands and the development of provisions for Regionally Significant Wetlands that will potentially affect its existing or future developments, in particular its planned renewal projects within the Otago Region.

**Table 1: Proposed Regionally Significant Wetlands of Interest to OtagoNet**

Map No	Wetland
22	Upper Taieri Wetland Complex
23	Upper Taieri Wetland Complex
25	Upper Taieri Wetland Complex; Patearoa Inland Saline Wetland; Belmont Inland Saline Wetland Management Area; Clacharnburn Marsh; & Totara Creek Inland Saline Wetland
26	Upper Taieri Wetland Complex
34	Willowburn Bog
36	Tautuku River Mouth Marsh
37	Otanomomo Tuatiki Reserve & Catlins River Wetland
38	Dunvegan Fen Complex
39	Cairn Road Bog
41	Clutha Matau Wetlands & Molyneux Bay Swamp
42	Finegard Lagoon Marsh; Cheetwood Road Wetlands; & Culcairn Oxbow Marsh
43	Lake Tuakitoto Wetland & Stirling Salt Marsh Complex
45	Measly Beach Wetland Complex
46	Lower Coutts Gully Swamp & Akatore Creek Swamp
48	Waipori/Waihola Wetland Complex
49	Waipori/Waihola Wetland Complex
50	Loch Luella Fen Complex
51	Loch Luella Fen Complex & Bungtown Bog

52	Tokomairiro River Swamp
53	Three Stones Fen Complex & Kuriwao Saddle Fen Complex
54	Stuarts Marsh & Tahakopa River Bogs
61	McGregor Swamp; Wakouaiti River Estuary Wetland Complex; & Ellison Saltmarsh
64	Nenthorn Ridge Wetland Management Area
67	Pleasant River Estuary Wetland Complex

#### 4. Submissions to Proposed Plan Change 2:

##### Objectives and Policies

##### Policy 10.4.1

The proposed values, from which Regionally Significant Wetlands and their boundaries are identified, are set out in Policy 10.4.1 of the Water Plan. Many of the proposed values are already listed in Policy 10.4.1 of the existing Water Plan, but there are also a number of new values proposed, which are associated with the deletion of the *Additional Wetlands* category. The proposed values currently have a strong ecological focus, which most likely stems from the definition of 'wetland' requiring any wet area to support a natural ecosystem of plants and animals to be classified as wetland for the purposes of the Water Plan.

Whilst OtagoNet acknowledges that ecological values, such as those identified in Policy 10.4.1, are fundamental in determining which wetlands hold regionally significant wetland values, OtagoNet is concerned that the existing activities and human use values within or affecting Regionally Significant Wetlands have not been recognised or provided for by ORC in preparing proposed Plan Change 2.

At the time of reviewing draft Plan Change 2, OtagoNet suggested that ORC should reconsider the scheduling of wetlands that had been undertaken to ensure existing activities and human use values had been taken into account when establishing the boundaries and values ascribed to certain wetlands. OtagoNet's intention was that this would ensure that existing activities and human use values would not be unduly compromised without consideration of their benefits. OtagoNet's comments in this respect do not appear to have been taken into account by ORC in developing the draft Plan Change into Proposed Plan Change 2 for public notification.

OtagoNet submits that the ORC is required to protect regionally significant infrastructure. OtagoNet's existing network facilities within the Otago Region are important and strategic physical resources which warrant protection under Part 2 of the RMA because of their contribution to the region's economic, social and cultural wellbeing. In particular, OtagoNet's existing lawfully established utility

assets in and surrounding areas identified as Regionally Significant Wetland and the essential renewal of these assets should not be unduly compromised.

In establishing the policy regime and non-regulatory inventory for Regionally Significant Wetlands, the ORC should give due consideration to existing and consented activities and infrastructure and any associated human use. This may involve identifying activities and human use values within or surrounding scheduled Regionally Significant Wetlands and further developing the proposed policies such that human use values are required to be considered in relation to Regionally Significant Wetlands, in addition to ecological values which are already provided for. This would enable the protection of physical resources in a way which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety pursuant to Section 5 of the RMA, without compromising requirements a-c of Section 5 from being achieved.

#### **Policy 10.4.2**

Policy 10.4.2 gives primacy to the avoidance of adverse effects of activities on Regionally Significant Wetlands over remediation or mitigation. OtagoNet opposes this Policy. OtagoNet is concerned with the primacy that has been given to avoiding adverse effects, as the application of sustainable management cannot be fulfilled if primacy is given to the term 'avoid' over that of 'remedying' or 'mitigating'. Case law has established that the words "avoid, remedy and mitigate" are to be read conjunctively, as of being of equal importance, rather than steps on a continuum<sup>1</sup>, even if they appear to follow a continuum<sup>2</sup>. Whether prominence is given to the avoidance, remediation or mitigation of adverse effects will depend on the facts of a particular case and the application of Section 5 of the RMA to those facts. A judgement must, therefore, be made by decision-makers which takes account of conflicting considerations. Policy 10.4.2 should reflect this. Policy 10.4.2 may be amended as follows:

~~10.4.2 — Priority will be given to the avoidance of adverse effects of activities on Regionally Significant Wetlands and values. Remedying or mitigating adverse effects will be considered only where those effects cannot be avoided. Adverse effects on Regionally Significant Wetlands and their regionally significant values should be avoided, remedied or mitigated.~~

#### **Chapter 13**

The changes proposed to Chapter 13, which contains rules pursuant to land use on lake or river beds or regionally significant wetlands, are particularly significant to OtagoNet's operations. OtagoNet generally opposes the permitted activity rules proposed in Chapter 13 on the basis that superfluous resource consents are likely to be required under the proposed provisions. Such

<sup>1</sup> *Adams Landscapes Limited v Auckland City Council (2002)*

<sup>2</sup> *Winstone Aggregates Ltd v Auckland Regional Council (2002)*

consenting requirements have the potential to impede OtagoNet's operations and risk the security of its regionally significant network.

Whilst OtagoNet acknowledges that most of the permitted activity standards set out in the proposed permitted activity rules in Chapter 13 predate proposed Plan Change 2, OtagoNet wishes to make submissions on their application to Regionally Significant Wetlands. This is because the extended application of these standards to encompass Regionally Significant Wetlands has the potential to adversely affect OtagoNet's operations. OtagoNet's submissions on such rules are set out below. OtagoNet has suggested refinements to certain standards so that they are able to achieve their intended purpose without prejudicing development.

***The erection or placement of structures***

Rules 13.2.1.1 and 13.2.1.2 apply to any new infrastructure OtagoNet seeks to establish. Proposed Plan Change 2 has amended these rules so that they now encompass the erection or placement of the specified structures over, on or under Regionally Significant Wetlands, in addition to over, on or under the bed of lakes and rivers. If the proposed activity does not comply with one or more of the standards set out in Rules 13.2.1.1 and 13.2.1.2 resource consent is required for a restricted discretionary activity.

OtagoNet submits that proposed standards (h) of Rule 13.2.1.1 and (c) of Rule 13.2.1.2 should be amended if they are to apply to Regionally Significant Wetlands. At present these standards are associated with a high degree of subjectivity because whether or not a structure is maintained in good repair is likely to be interpreted differently by various individuals. OtagoNet considers that it would be exceedingly difficult to demonstrate that any new lines and cables will be "maintained in good repair" into the future. Therefore, OtagoNet submits that these standards may be amended as follows:

**13.2.1.1**

(h) *The fence, pipe, line or cable is maintained in good repair such that it does not present a hazard to persons or their property.*

**13.2.1.2**

(c) *The pipe, line, or cable is maintained in good repair such that it does not present a hazard to persons or their property.*

OtagoNet is uncertain of the purpose of standard (d) of Rule 13.2.1.1, which reads:

**13.2.1.1**

(d) *Where it is attached to an existing lawful structure, no part of any pipe, line or cable extends below the underside of the existing structure;*



It seems that (d) deliberately follows on from (c)<sup>3</sup> and may prevent pipes, lines or cables extending below the underside of existing structures in case the structure is within two metres of the 1 percent probability flood limit. If this is the case, OtagoNet submits pipes, lines or cables should only be prevented from extending below the underside of a lawful structure if the lawful structure is within two metres of the 1 percent probability flood limit.

OtagoNet submits that (f) of Rule 13.2.1.1 is subjective and would be difficult to decipher in assessing the effects of the placement of a structure in a wetland. OtagoNet submits that the amendments shown below may provide more certainty.

**13.2.1.1**

- (f) *The fence, pipe, line or cable does not interfere with established navigation routes; and*

***The extension, alteration, replacement or reconstruction of a structure***

Proposed Rules 13.3.1.1 and 13.3.1.2 would apply to renewal projects, such as OtagoNet's proposed 11kv lines renewals. If the proposed activity does not comply with one or more of the standards in either of Rules 13.3.1.1 or 13.3.1.2, resource consent is required for a restricted discretionary activity.

OtagoNet supports Rule 13.3.1.1 as the repair or maintenance of a lawful structure should be a permitted activity. OtagoNet partially supports Rule 13.3.1.2 and submits that standard (a) of Rule 13.3.1.2 should be amended as set out below to avoid minor relocations unnecessarily requiring resource consent.

- (a) *In the case of a replacement or reconstruction, the structure is replaced or reconstructed in approximately the same location as the original structure; and*

In addition to the above standards which predated Plan Change 2 (with the exception of their application to wetlands), OtagoNet wishes to submit on the new standard proposed to be included in rules relating to the demolition or removal of a structure or any part of a structure (Rule 13.4.1.1) and to the disturbance of any Regionally Significant Wetland (Rule 13.5.1.1 and 13.5.1.3). The proposed new permitted activity standard provides that:

*"... there is no change in water level or hydrological function, or no damage to the flora, fauna or its habitat, in or on any Regionally Significant Wetland."*

If the demolition or removal of a structure does not comply with this standard or other standards contained in Rule 13.4.1.1, resource consent is required for a restricted discretionary activity. If the alteration / disturbance of a Regionally Significant Wetland does not comply with this standard or other standards

<sup>3</sup> (c) *No part of any pipe, line or cable is less than two metres above the 1 percent probability flood level, unless it is attached to an existing lawful structure;*

contained in Rules 13.5.1.1 or 13.5.1.3, resource consent is required for a discretionary activity.

OtagoNet opposes the above permitted activity standard and submits that it should be deleted on the basis that it does not meet the requirements for a permitted activity standard as it does not enable compliance to be objectively assessed. It would be exceedingly difficult to demonstrate that the disturbance of any Regionally Significant Wetland results in “no change” or “no damage” to the parameters identified. OtagoNet is very concerned that requiring no net change in hydrological and ecological values would effectively preclude any development in or on any Regionally Significant Wetland without resource consent. OtagoNet considers that the standard is inconsistent with Section 5(2) of the Resource Management Act 1991 (RMA) which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety, providing adverse effects on the environment are avoided, remedied or mitigated. OtagoNet also considers that the standard extends the protection of flora and fauna beyond the intended scope provided for by Section 6(c) of the RMA, which relates to significant indigenous vegetation and significant habitats of indigenous fauna.

### **Schedules and Non-regulatory Inventory**

#### *Repeal of Schedule 10*

OtagoNet supports the repeal of Schedule 10 Additional Wetlands. OtagoNet considers that this streamlines the wetlands provisions, which is conducive to people using the Water Plan.

#### *Repeal of Values Information from Schedule 9*

Schedule 9 currently lists the values (from Policy 10.4.1) that are to be protected and enhanced for each Regionally Significant Wetland. The draft Plan Change seeks to remove the values information associated with each wetland from Schedule 9, and develop a non-regulatory inventory (separate from the Water Plan) that contains this information.

OtagoNet understands that the Council’s reason for specifically excluding the non-regulatory inventory from the Water Plan is that if the inventory is included in the Water Plan a formal Plan Change process would need to be undertaken each time more information becomes available on the wetlands. OtagoNet is aware that the local ecology of any wetland is subject to change and generally supports periodic surveying of wetlands and the general information contained in the non-regulatory inventory being kept up to date.

Having taken account of this, OtagoNet considers that it is appropriate to include the general information on Significant Wetlands in a non-regulatory inventory, but opposes values information not being listed in the Water Plan. As the non-regulatory inventory will have no status when it comes to dealing with matters relevant to the Water Plan, issues in applying the proposed provisions which relate directly to wetland values are likely to arise if the values

information is only contained in the non-regulatory inventory and is not listed in the Water Plan. In addition, as the identified regionally significant wetland values guide the management and consenting of activities that affect the Regionally Significant Wetlands to which the values are ascribed, OtagoNet considers that any changes to the regionally significant wetland values identified for a Regionally Significant Wetland should require a formal Plan Change process. This would provide for stakeholder consultation if values information were to change.

*Non-regulatory Inventory*

OtagoNet is dissatisfied that the method by which individual wetlands were assessed, and the resultant regionally significant values ascribed to Regionally Significant Wetlands, have not been available to stakeholders and the public throughout the consultation process for Plan Change 2. OtagoNet submits that the non-regulatory inventory which is to contain regionally significant wetland values for scheduled Regionally Significant Wetlands should have been available to stakeholders and the public at least at the time Plan Change 2 was publicly notified for consideration in this submission. OtagoNet considers that this lack of transparency is a significant shortcoming of Plan Change 2, in particular non-regulatory inventory and mapping process by which Regionally Significant Wetlands have been determined or expanded.

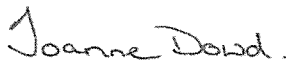
**5. In summary OtagoNet:**

- a) Generally opposes the Plan Change and has set out the specific relief sought under the submissions outlined in Section 4 above.
- b) Is concerned that actual and potential effects on its existing infrastructure would occur from the Plan Change if the following amendments and addendums are not made:
  - Activities and human use values should be provided for in Plan Change 2 such that they are not unduly compromised without recognition of their benefits.
  - Primacy should not be given to avoiding adverse effects, over remedying or mitigating adverse effects as this is inconsistent with sustainable management as defined in the RMA and established case law.
  - Rules (or standards in rules) that seek to achieve no net change of any particular value(s) should not be included in the Water Plan. Such provisions do not meet the test to be rules in a plan as they do not enable compliance to be objectively assessed and result in considerable uncertainty as to their application.
  - Rules (or standards in rules) associated with a high degree of subjectivity should be revised and amended or deleted.

- Regionally significant values ascribed to each Regionally Significant Wetland should be included in Schedule 9 to the Water Plan.

6. **OtagoNet seeks the following decision from the Otago Regional Council (applicable to the above mentioned Plan Change in its entirety):**
- That the amendments and addendums outlined in **Sections 4 and 5** above are accepted and any necessary consequential amendments to Plan Change 2 are made;
  - Such further or other relief as is appropriate or desirable in order to take account of the concerns expressed in this submission; and
  - That, in the event that the amendments and addendums set out above are not implemented, Plan Change 2 be withdrawn.
7. **OtagoNet wishes to be heard in support of its submission.**
8. **If others make a similar submission, OtagoNet would be prepared to consider presenting a joint case with them at any hearing.**

**Signature:**



By its authorised agent Joanne Dowd, for and on behalf of  
OtagoNet Joint Venture

**Date:** 29 July 2011

**Address for service:** Mitchell Partnerships Limited  
PO Box 489  
**DUNEDIN**

Attention: Joanne Dowd

**Telephone:** 03 477 7884

**Facsimile:** 03 477 7691

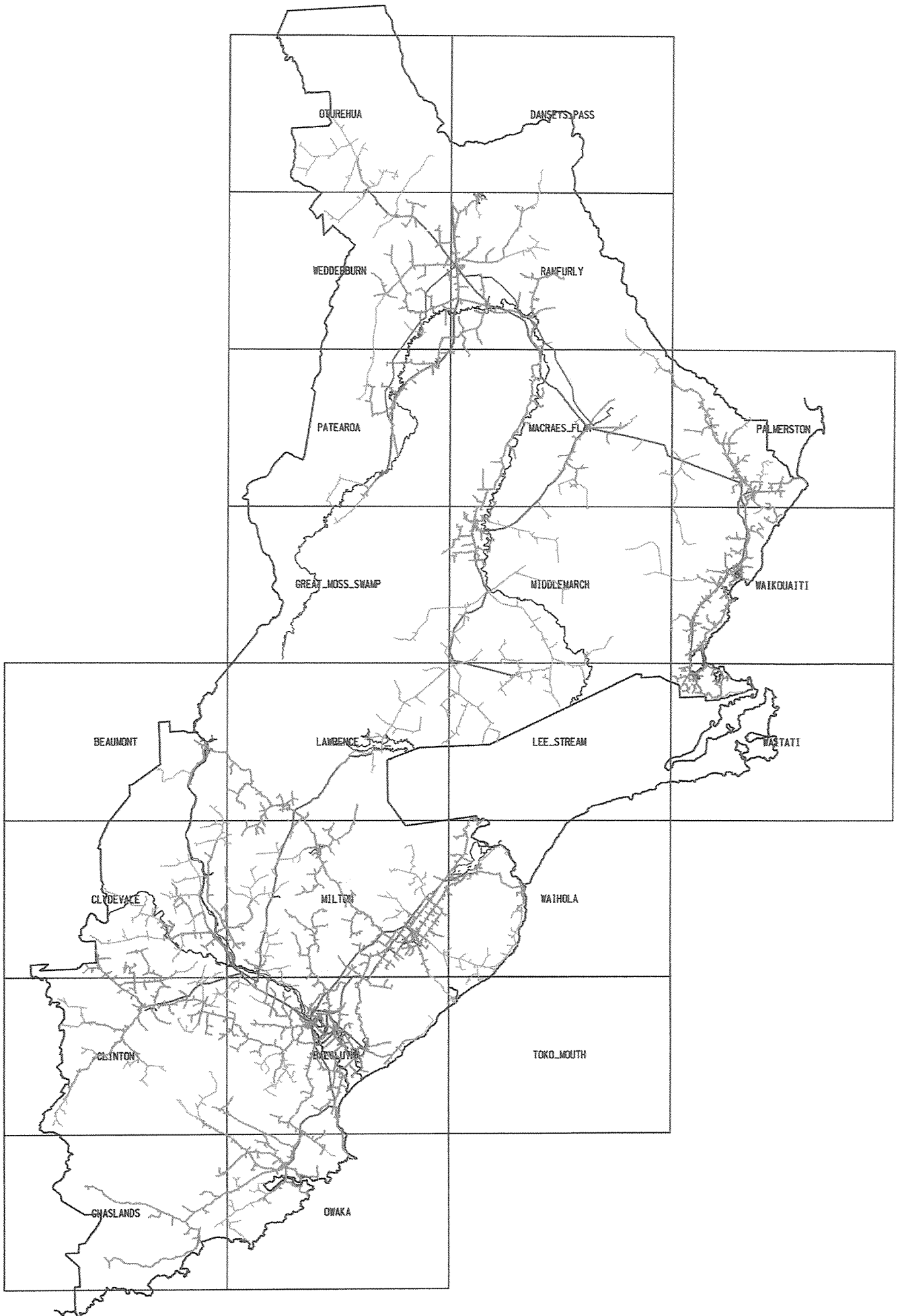
# **APPENDIX A**

## **Subtransmission Network**



# **APPENDIX B**

11kv Distribution Network

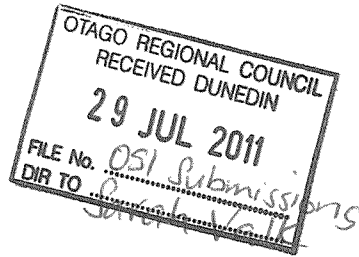




# ANDERSON LLOYD

44

29 July 2011



**For: Fraser McRae**

Otago Regional Council  
Private Bag 1954  
DUNEDIN

Anderson Lloyd  
Level 2, 13 Camp Street  
Queenstown 9300, New Zealand  
PO Box 201, Queenstown 9348  
P: 03 450 0700  
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Also in:  
Christchurch  
Dunedin  
[www.andersonlloyd.co.nz](http://www.andersonlloyd.co.nz)

Dear Fraser

**Plan Change 2 (Regionally Significant Wetlands) to the Regional Plan: Water for Otago**

We act for Ladies Mile Partnership.

Please find attached a copy of the submission on behalf of Ladies Mile Partnership on the Otago Regional Council's Plan Change 2 (Regionally Significant Wetlands)

Yours faithfully  
**Anderson Lloyd**

**Warwick Goldsmith/Tim Stevens**  
Consultant/Solicitor  
P: 03 450 0752  
M: 021 220 8824  
E: [warwick.goldsmith@andersonlloyd.co.nz](mailto:warwick.goldsmith@andersonlloyd.co.nz)  
P: 03 450 0748  
E: [tim.stevens@andersonlloyd.co.nz](mailto:tim.stevens@andersonlloyd.co.nz)

**SUBMISSION ON PROPOSED PLAN CHANGE 2 (REGIONALLY SIGNIFICANT WETLANDS) TO  
THE REGIONAL PLAN: WATER FOR OTAGO**

**To:** Otago Regional Council  
Private Bag 1954  
Dunedin  
Attn: Fraser McRae

**1. This is a submission on the following:**

- a. Plan Change 2 (Regionally Significant Wetlands) to the Regional Plan: Water for Otago ("the Plan Change").

**2. Name of Submitter:**

- a. Ladies Mile Partnership ("LMP").

**3. Address for Service:**

- a. Anderson Lloyd Lawyers  
PO Box 201  
Queenstown  
Attn: Warwick Goldsmith/Tim Stevens  
Tel: 03 4500 700  
Email: warwick.goldsmith@andersonlloyd.co.nz/tim.stevens@andersonlloyd.co.nz

**4. The specific provisions the submission relates to are:**

- a. The Plan Change insofar as it relates to Shotover River Confluence Swamp (wetland reference number 137).

**5. LMP submits:**

- a. It does not believe that Shotover River Confluence Swamp should be categorised as a "regionally significant wetland".
- b. LMP disputes the values that ORC states Shotover River Confluence Swamp has. Specifically:
- i. "A1 – Habitat for nationally or internationally rare or threatened species or communities. Habitat for the *Olearia lineata* (At Risk – Declining)." It is LMP's position that no *olearia lineata* is to be found in the Shotover River Confluence Swamp, and that its habitat is located further downstream, true left of the Kawarau River on the river escarpment.
- ii. "A3 – High diversity of habitat types. The variety of plant communities within such a small area is remarkable. Twenty-one species of native plants have been recorded in the wetland. Bird species observed on the wetland include Pukeko, shelduck and harrier, while the wetland also provides possible habitat for crane, scaup, shoveler, black fronted tern and plover." LMP disputes that there are 21 species of native plants to be found in the Shotover River Confluence Swamp. The footnote referenced in the statement provides that 21 species of native plants were found over the site that is subject to Plan Change 41: Shotover Country. Plan Change 41: Shotover Country encompasses an area far larger area than just Shotover River Confluence Swamp. LMP submits the diversity of species in Shotover River Confluence

Swamp is reasonably low. In respect of the bird species, LMP submits the bird species listed commonly live in and around wetlands. The presence of these birds does not necessitate the status as a regionally significant wetland.

- c. LMP therefore considers that Shotover River Confluence Swamp does not have the values that would necessitate its status as a regionally significant wetland.
- d. Plan Change 41: Shotover Country to the Queenstown Lakes District Plan already provides additional and sufficient protection to Shotover River Confluence Swamp.
- e. The following policy and rules in Plan Change 41: Shotover Country provide specific protection to Shotover River Confluence Swamp:
  - i. Policy 3.1 - To identify suitable areas for the protection and improvement of ecosystems, with a focus on the natural character and ecological values of the terraces and wetland within the zone.
  - ii. Zone Standard X, Wetland and Riverside Protection Vegetation – Activity Areas 5c and 5d - Any land within Activity Areas 5c and 5d shall be kept free of gorse, broom, briar, tree lupin, hawthorn, crack willow, buddleia, Californian thistle, and any other Pest Plant as specified in the Regional Pest Management Strategy for Otago, except this rule shall not apply to crack willow along the bank of the Shotover River.

Planting on any land within Activity Area 5d shall be in accordance with the plant list contained within Part 2 of Appendix 1.
  - iii. Zone Standard XI, Wetland Setback - No buildings shall be constructed within the Wetland Setback identified on the Structure Plan.
- f. Providing additional protection through the Plan Change will duplicate the protection provided in PC41: Shotover Country and is unnecessary.
- g. If PC41: Shotover Country is confirmed by the Queenstown Lakes District Council LMP may develop part of Shotover River Confluence Swamp as an ecological and/or recreational area and may also discharge stormwater onto the wetland. The provisions contained in the Plan Change will make obtaining a resource consent for either of these activities harder to obtain and are unnecessary and will not result in a efficient use of resources.
- h. That categorising Shotover River Confluence Swamp as a regionally significant wetland will not result in sustainable management and protection of this resource in the surrounding environment in accordance with Part 2 of the Resource Management Act 1991.
- i. The area mapped as Shotover River Confluence Swamp in Map F5 of the Plan Change is inaccurate and over exaggerates the size of Shotover River Confluence Swamp. If LMP's primary submission is not accepted and Shotover River Confluence Swamp's status as a regionally significant wetland is not removed, then LMP believes the mapped area should be reduced so that it accurately reflects the boundary of Shotover River Confluence Swamp.

**6. LMP seeks the following decision from the Otago Regional Council**

- a. Removal of Shotover River Confluence Swamp's categorisation as a regionally significant wetland; or

- b. A reduction in the size of the area mapped as Shotover River Confluence Swamp in Map F5; and
  - c. Any other or consequential relief necessary to address the points raised in this submission.
7. **LMP wishes to be heard in support of this submission at the Hearing. If others make a similar submission, LMP will not consider presenting a joint case with them at the Hearing.**



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Warwick Goldsmith/Tim Stevens  
Counsel for Ladies Mile Partnership

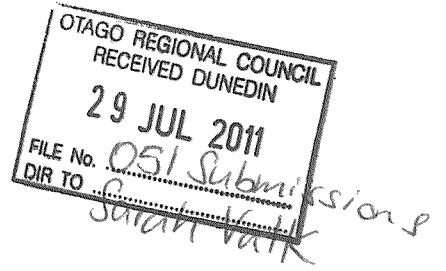
Dated: 29 July 2011

**Olivia Motion**

**From:** Mark Beaton [markb@outram.school.nz]  
**Sent:** Friday, 29 July 2011 4:47 p.m.  
**To:** Policy Reply  
**Subject:** SUBMISSION - Proposed Plan Change 2 (Regionally Significant Wetlands)

Mark Adrian Beaton  
Beaton family of Berwick  
1388 Berwick Road, R.D. 1, Outram 9073.

Mark 489 6187; Ian T. 486 1308 (and has answer phone and fax).  
This e-mail and/or [ian.t.bton@xtra.co.nz](mailto:ian.t.bton@xtra.co.nz)



I do wish to be heard in support of my submission.

We generally support the proposed document but we are concerned about some of the detail.

**Maps:**

Our farm borders, and is partly included within, the Waipori/Waihola Wetlands Complex. (This is NOT our choice.) We are concerned that the map of the boundary does not clearly show whether one of our pumps and associated stop banks are included or excluded from the wetlands area. I have asked for detail but it is still not clear. How fuzzy are the boundaries? I get the impression they are like brick walls. If that is the case, then the Otago Regional Council need to shift themselves to ground check the boundaries.

There is also the case of stop bank maintenance. Will stop bank maintenance require an additional level of bureaucracy to have anything done? This is an excruciatingly slow process already!

**Rule 13.6 The introduction or planting of vegetation.**

Planting in some areas e.g. Titri Wetland, should have some hump and hollow modification to allow some planting to take place out of the water. Many of the plants put in to wet soil have died. A natural wetland would have a mix of firmer ground, mainly next to channels, with inter-fluvial swamps between. For example, the Titri wetland has been modified by farming and abandoned, so such natural soil conditions may need to be reinstated before successful diverse vegetation may be reinstated. If the ORC is going to make such processes a hassle; why would anybody bother?

Would planting our island qualify for any carbon credits?

Planting next to a river would need to take into account requirements for flood river flow, therefore, permitted planting of any native wouldn't necessarily apply. Perhaps a schedule of species suitable for such zones might be appropriate.

**Rule 13.7 The removal of vegetation.**

We have had the experience of pompous individuals spraying planted trees along with willows in their burnt-Earth processes. At some stage, there has to be some control on spraying, and spray drift, before it becomes worthwhile to plant any trees. At what stage will the ORC require an area being sprayed to have protection for existing plants, not of the spray-target species. If a tree has been growing for twenty-five years – a 'sorry' as a result of killing by wayward spraying – just isn't sufficient!

The ORC has been spraying a flood-zone down the Waipori River over our island for many years. There has been no noticeable change in the species re-growing. We are concerned about the rhetoric of organisations like the Waihola Waipori Wetlands Society, DoC, and Fish & Game, stating that natural vegetation will regenerate by doing nothing

more than flicking some spray around now and again. The experience down the left channel of the Waipori River does not support such a view.

No mention has been made of the removal of debris as a result of the removal of vegetation. With large scale spraying of willows, there is a potential risk of the flotsam ending up against infrastructure assets like the main road and railway bridge over the Waipori River. Has anybody assessed this risk and thought through any contingency plans?

**Rule 13.5 Alteration of the bed of a lake, river, or of a regionally significant wetland.**

Both Lakes Waipori and Waihola need channel modifications because of sedimentation at the river mouths. Not only is sedimentation inhibiting navigation but it is also inhibiting the flow of tidal waters that regenerate the waters held within the lakes. This is likely to come up as a pressing problem at some stage. Are the ORC making rules and conditions that will make resource consents impossible to obtain? The equipment (a dredge) is likely to be present once and timetabling may also be a problem.

**13.5.1.8**

One of the reasons why willows have got away on our island is because stock are not eating the young willows. We have been scared of putting stock out there. We would like to continue to light graze the island (Section 83 Blk 6 Maungatua SD) particularly in response to our obligations to control willows. Because it is light grazing and because of the nature of wetlands (rushes etc.), there are some tracks between the vegetation. At what stage does that become a problem? In the past, we would comply with the statements, but, it is a matter of interpretation. Do any of these rules have an appeal process?

We are effected but we have no particular comments:

Rule 12.5 Discharge of drainage water.

Rule 12.8 Discharge of agricultural waste and fertiliser.

Rule 12.11 Discharge of water or tracer dye?

Rule 12.12 Discharges from dams and reservoirs

We think the level of Lake Mahinerangi should be on a web-site along with other hydrological information available from the Otago Regional Council.

Rule 13.2 The erection and placement of a structure

We think maimai's should be temporary structures, particularly in some areas. Why should shooters and whitebaiters be allowed to squat in a wetland area?

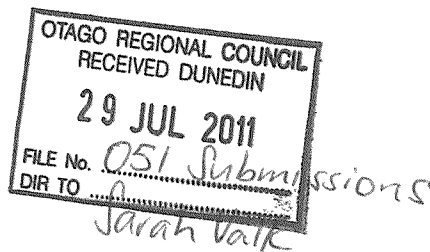
However, we do have two pump stations on the perimeter of our farm.

Rule 13.3 The extension, alteration, replacement or reconstruction of a structure.

That is our concerns,

Yours sincerely,

Mark Beaton.



Your Ref: Otago Regional Council; Regional Water Plan, Proposed Plan Change 2  
**SUBMISSION ON Proposed Plan Change 2: Regionally Significant Wetlands**

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

**SUBMISSION ON Proposed Plan Change 2: Regionally Significant Wetlands**

**NAME OF SUBMITTER:**  
New Zealand Railways Corporation (KiwiRail)

**ADDRESS FOR SERVICE:**  
Level 6  
Wellington Railway Station  
Bunny Street  
PO Box 593  
**WELLINGTON 6140**  
Attention:

Ph: (04) 498 3389  
Fax: 04 473 1460  
Email: pam.butler@kiwirail.co.nz

KiwiRail wishes to be heard in support of this submission and we may wish to have a joint submission with other parties who have a similar submission

Yours sincerely

Pam Butler  
RMA Advisor  
KiwiRail

29 July 2011

KiwiRail submissions to Otago Regional Council, Regional Water Plan, Proposed Plan Change 2: Regionally Significant Wetlands

Submission Number	Plan Section	Supports/Op pose	Submissions/reasons	Relief sought
1	Definitions section of the Regional Water Plan	Oppose – no definition provided.	<p>There is no definition provided of a 'Regionally Significant Wetland' in the Regional Water Plan. Where activities, such as the maintenance of railway corridors occur on 'dry' areas i.e. causeways above the permanent or occasional water table, they should be permitted and only those activities which impact on the wetland captured within the new controls.</p> <p>A definition should clarify that those activities that occur on 'dry' land; such as land transport corridors located within the wider boundary area of the Regionally Significant Wetlands shown in the revised Maps accompanying Plan Change 2 are not intended to be affected by these controls.</p> <p>For example, an open drain area on 'dry' land should only be controlled at the point that it discharges/affects/and/or lies within the physical wetland area.</p>	Add a definition to the glossary section of the Water Plan to accompany Plan Change 2 which specifically excludes permanently dry land areas from regionally significant wetland areas.
2	Schedule 1: <i>Schedule of natural and human use values of</i>	Oppose	The schedule does not contain any criteria which recognise the location and importance of regionally (and nationally) important land transport networks which are, in places, incorporated within the new 'Regionally	Add a further criteria to Schedule 1 which would apply to all wetland areas and



KiwiRail submissions to Otago Regional Council, Regional Water Plan, Proposed Plan Change 2: Regionally Significant Wetlands

Submission Number	Plan Section	Supports/Op pose	Submissions/reasons	Relief sought
	<i>Otago's surface water bodies</i>		<p>Significant Wetland' boundaries. Plan Change 2 introduces a greater level of protection to the region's wetlands. Reconciliation of competing objectives must be considered via Part 2 (of the RMA) during the consent process in relation to specific applications, in accordance with the provisions of regional plans, including the Water Plan.</p> <p>The Water Plan does not provide a policy framework that allows full consideration of ways to address these competing outcomes. The proposed Plan Change does not allow for the fixed location of land based transport networks to be weighed when they require replacement, or alteration within their current alignments. Amending schedule 1 will achieve the relief sought, which is to provide a balancing policy within which the retention and maintenance of existing infrastructure can be adequately considered in consent applications.</p>	<p>state (or similar):</p> <p><i>The regional value of existing land transport networks, including rail, and their function.</i></p>
3	12.3.3 12.4.2 12.5.2 12.9.2 13.2.2 13.3.2 13.4.2	Oppose	These criteria do not take into account the location of regionally (and nationally) important land transport networks which are, in places, incorporated within the new 'Regionally Significant Wetland' boundaries. Plan Change 2 introduces a greater level of protection to the region's wetlands and this is generally	Add a further criterion which recognises the importance of existing land transport networks, such as rail where

KiwiRail submissions to Otago Regional Council, Regional Water Plan, Proposed Plan Change 2: Regionally Significant Wetlands

Submission Number	Plan Section	Supports/Op pose	Submissions/reasons	Relief sought
	13.5.2		supported. However in view of this change there are no balancing criteria, other than those in Part 2 RMA, which allow for the fixed location of land based transport networks to be considered when they require replacement, or alteration along their current alignments. A criterion should be added to also recognise that transport infrastructure is particularly important for enabling people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety.	these are currently located within regionally significant wetlands such as:  <i>“Any positive effect derived from the function of the structure and /or activity in this location”</i> or similar  <i>NB: (amending Schedule 1 as set out in (2) above as requested would largely achieve the same relief)</i>
4	Schedule 9 and Proposed Plan Change 2 Maps including: Map F48 Map F59	Oppose	The inclusion of the railway corridor areas in Schedule 9 and Proposed Plan Change 2 Maps	a.Alter all proposed maps to remove railway corridor(s) from regionally significant wetland areas; or b.Alter all proposed

**KiwiRail submissions to Otago Regional Council, Regional Water Plan, Proposed Plan Change 2: Regionally Significant Wetlands**

Submission Number	Plan Section	Supports/Op pose	Submissions/reasons	Relief sought
				maps to ensure that the rail formation 'above' the permanent regionally significant wetland areas are not subject to Plan Change 2

47

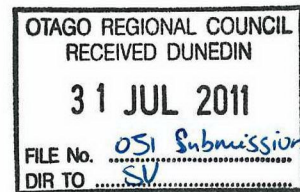


**Forest & Bird**  
GIVING NATURE A VOICE

Royal Forest and Bird Protection  
Society of New Zealand Inc.  
Dunedin Office:  
Box 6230  
Dunedin  
New Zealand  
P: +64 3 477 9677  
www.forestandbird.org.nz

29 July 2011

Otago Regional Council  
Private Bag 1954  
Dunedin 9054



Attention: Proposed Plan Change 2 (Regional Significant Wetlands)

Dear Sir/Madam

**Proposed Plan Change 2 (Regional Significant Wetlands)  
Submission – Royal Forest and Bird Protection Society of New Zealand Inc.**

Please find attached the Royal Forest and Bird Protection Society of New Zealand (Forest & Bird) submission on the Proposed Plan Change to the Otago Regional Water Plan – Proposed Plan Change 2 (Regionally Significant Wetlands).

Yours sincerely

Sue Maturin  
Otago/Southland Field Office

**SUBMISSION ON PUBLICLY NOTIFIED PROPOSED PROPOSED PLAN CHANGE 2 (Regionally Significant Wetlands) UNDER CLAUSE 6 OF THE FIRST SCHEDULE OF THE RESOURCE MANAGEMENT ACT 1991**

**To:** Otago Regional Council

**Submission on:** Proposed Plan Change 2 (Regionally Significant Wetlands) to the Regional Plan: Water for Otago

**Name:** Royal Forest and Bird Protection Society of New Zealand Inc

**Address:** Royal Forest and Bird Protection Society of New Zealand Inc  
Box 6230  
Dunedin

Forest & Bird wishes to be heard in support of its submission and would be prepared to consider presenting a joint case with others making a similar submission.

**STATEMENT OF SUBMISSION BY THE ROYAL FOREST AND BIRD PROTECTION SOCIETY OF NEW ZEALAND INC**

Pursuant to Clause 6 of the First Schedule of the Resource Management Act 1991 the Royal Forest and Bird Protection Society of New Zealand (Forest & Bird) make the following submissions on Proposed Plan Change 2 (Regionally Significant Wetlands) to the Regional Plan: Water for Otago.

The submissions are structured as follows:

- The specific provisions that this submission relates to are set out below using the same system of identifying numbers as that contained in the plan;
- The wording of relief sought shows new text as underlined and original text to be deleted as ~~strikethrough~~.

## INTRODUCTION

### Regional Council Functions and Wetlands Protection under the RMA

The purpose of the RMA is to promote sustainable management of natural physical resources. Sustainable management is defined as managing the use, development and protection of natural and physical resources, which wetlands are one of those resources.

Section 30 of the RMA requires Councils to prepare Regional Policy Statements and Regional Plans to manage resources in their region in a sustainable manner. These plans ensure that sustainable management and the functions of the RMA are implemented at a regional level.

The RMA sets out the functions of Regional Councils for the purpose of giving effect to the purpose of the RMA. The following RMA provisions are relevant to this plan change:

- Managing the effects of the use, development, or protection of land which are of regional significance (s30(1)(b));
- The control of the use of land for the maintenance and enhancement of water quality (s30(1)(c)(ii));
- The control of the use of land for the maintenance and enhancement of ecosystems in water bodies (s30(1)(c)(iii));
- The control of the introduction of plants (s30(1)(g)); and
- The maintenance of indigenous biological diversity (s30(ga)).

Regional Plans, including variations and plan changes, are to be prepared in accordance with Part 2 of the RMA. The intent of Part 2 is directly relevant to this plan change. More specifically s6(a) provides for the preservation of the natural character of wetlands and their margins and s6(c) provides for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna. Relevant matters are also included in s7(d), (f) and (g): Councils shall have particular regard to the intrinsic values of ecosystems, the maintenance and enhancement of the quality of the environment and any finite characteristics of natural and physical resources.

### Otago Regional Policy Statement

The Otago Regional Policy Statement (ORPS) became operable 1 October 1998. The principle methods of protection and management for Otago's wetlands identified in the ORPS included the identification of the regions significant wetlands as part of the preparation of the Regional Plan: Water. Objective 6.4.8 aims to protect the outstanding natural character, natural features, landscapes and associated values of Otago's wetlands. Policy 6.5.6 focuses on the protection of Otago's remaining significant wetlands and required activities to have no significant adverse effects on community needs, Kai Tahu cultural and spiritual values,

natural hydrological characteristics, natural character, habitats of indigenous fauna, amenity values, intrinsic values and salmon or trout habitat. This policy also enables as compensation for the loss of habitat the creation of alternative habitats of a similar or improved nature. Policy 6.5.7 focuses on the maintenance and enhancement of well vegetated riparian margins.

### **New Zealand Biodiversity Strategy ('the Strategy')**

The Strategy has been prepared in response to the state of decline of New Zealand's indigenous biodiversity. The Strategy also reflects New Zealand's commitment, through ratification of the international Convention on Biological Diversity, to help curb the loss of biodiversity worldwide.

The purpose of the Strategy is to establish a strategic framework for action, to conserve and sustainably use and manage New Zealand's biodiversity. To achieve this objective the Strategy contains a set of goals. Goal Three is aimed at halting the decline of indigenous biodiversity and reads:

*Maintain and restore a full range of remaining natural habitats and ecosystems to a healthy functioning state, enhance critically scarce habitats, and sustain the more modified ecosystems in production and urban environments; and do what else is necessary to maintain and restore viable populations of all indigenous species and subspecies across their natural range and maintain their genetic diversity.*

Halting the decline of indigenous biodiversity is described in supporting documents as the bottom line nationally. The Strategy does not offer statutory protection to wetlands, but instead, the Strategy provides a basis and strong policy direction to local authorities to provide appropriate protection via their policies and plans. The Strategy also provides councils with the tools to gauge where their region sits in a national context. The significance of the biodiversity in a region may not be apparent until it is considered on a national scale.

### **Statement of National Priorities for Protecting Rare and Threatened Biodiversity on Private Land**

In 2007, the Minister of Conservation and the Minister for the Environment issued a Statement of National Priorities for Protecting Rare and Threatened Biodiversity on Private Land. The Statement of National Priorities addresses the fact that a lot of New Zealand's biodiversity is found on private land, and was intended as guidance for local government, which has the primary responsibility for protecting indigenous biodiversity on that private land. Plans under the RMA are their main tools for achieving that.

The Statement identifies rare and threatened environments and ecosystems at a national level, that are most in need of protection. This information is then passed down to regional and local governments to help achieve the Strategy, the objective of which is to halt the decline in New Zealand's indigenous biodiversity. Along with clear priorities, the statement provides a national perspective which councils can use in planning and decision making.

The statement of national priorities consists of four priorities. They are as follows:

*National Priority 1:*

To protect native vegetation associated with land environments, (defined by Land Environments of New Zealand at Level IV), that have 20 percent or less remaining in native cover.

*National Priority 2:*

To protect native vegetation associated with sand dunes and wetlands, ecosystem types that have become uncommon due to human activity.

*National Priority 3:*

To protect native vegetation associated with 'originally rare' terrestrial ecosystem types not already covered by priorities 1 and 2.

*National Priority 4:*

To protect habitats of acutely and chronically threatened native species.

**Convention on Wetlands of International Importance 1971 (RAMSAR)**

The RAMSAR convention was initiated by the International Union for the Conservation of Nature and Natural Resource ('IUCN') in 1971 to stem the loss of wetlands worldwide. The convention promotes the conservation of wetlands, and their use, so that these areas continue to operate as functioning ecosystems. This is to be achieved through local and national actions and international cooperation.

New Zealand signed RAMSAR in 1976. Joining RAMSAR signals a commitment to actively support the following pillars:

- (1) ensuring conservation and wise use of wetlands it has designated as Wetlands of International Importance
- (2) including as far as possible the wise use of all wetlands in national environmental planning
- (3) consulting with other Parties about implementation of the Convention (RAMSAR), especially in regard to trans-boundary wetlands, shared water systems, and shared species.



## **Wetlands other than those identified in Schedule 9 'Regionally Significant Wetlands'**

Forest and Bird welcomes the plan change proposal to add many of the wetlands in Schedule 10, plus the twenty four newly identified wetlands to the Regionally Significant Schedule 9, and the desire to better protect wetlands and their values. It is appropriate too, to require resource consents as non complying for activities that might cause the loss of a regionally significant wetland or its values.

The proposed Plan Change 2 has resulted in the removal of wetlands from the operative Schedule 10 (and the removal of this Schedule). Wetlands identified as having significant values have been placed in the proposed Schedule 9 whilst a significant number of wetlands that are considered to not have significant values have been removed all together. It is not clear how this process has been arrived at and is not explained in any satisfactory manner in the Section 32 Report. There does not appear to have been a thorough on the ground assessment of the wetlands within the Otago region and as a result it cannot be assumed that all significant wetlands have been captured in Schedule 9. This appears to be acknowledged in the Plan Change in Schedule 9 where it states that the list is not exhaustive. There is also no mechanism in the Plan to provide for further assessment of the values of those not within Schedule 9 to be assessed for their significant values through any consenting process and to be included in Schedule 9 through a Plan Change process.

There is no proposed mechanism to protect the natural character of wetlands not included in Schedule 9 other than relying on rules in Chapter 12-13 relating to waterbodies generally. These rules are permissive and it is difficult to see how Council can properly meet its responsibilities set out in Part 2 of the RMA and in particular s. 6(a) 6(c) 7(c)(d) and (g) in the Plan Change as proposed.

Forest & Bird is seeking in this submission that new policies are inserted into the Plan to allow for an on-going assessment of the significant values of other wetlands using best practice assessment criteria, and for more robust mechanisms to protect other wetlands to give better effect to Part 2 RMA.

### **General Submission**

#### **Financial Contributions**

Forest & Bird considers it is inappropriate to provide for financial contributions (either money or land or both) to off-set the affect of activities in significant wetlands where adverse effects cannot be avoided, remedied or mitigated. There has been large-scale loss or significant modification of wetlands both nationally and regionally and to provide for a policy that anticipates a financial contribution in circumstances where the avoidance,

remedying and mitigation is not possible is inconsistent with Part 2 RMA and the NPS on Freshwater Objectives B1 and B2.

The assessment criteria (Chapter 17) are not adequate to assess the viability of any off-setting. In *JF Investments Ltd v Queenstown Lakes DC* EnvC C048/06 the Court found that although in some circumstances it maybe appropriate to consider off setting under section 104 RMA it specified what would be required and the assessment could be made.

Policy 10.4.2A appears to suggest it is in fact possible to 'create' or 'reinstate' a regionally significant wetland. The ability to 'create' a significant wetland is unsupported by any scientific literature on this subject and there can be no assurance that any attempt to do so could be effective.

#### *Relief Sought*

Delete Policy 10.4.2A and all references relating to Regional Significant Wetlands and Significant Values and delete all provisions for financial contributions for regionally significant wetlands and significant wetland values in all rules.

#### **Deletion of Issues, Explanation and Reasons and Anticipated Environmental Results and cross references to Objectives, Policies and Rules**

One of the reasons for the introduction of the Plan Change is to make provisions easier to read and understand (S.32). Whilst it is appreciated that Council's have discretion as to whether to include the issues of the plan or reasons and anticipated results in Forest and Bird's view the removal of these from the proposed Plan Change does not make the Plan easier to understand.

In the first instance the retaining of the Introduction, Issues etc assists the decision-makers to better understand the reasons behind the new Objectives and Policies and subsequent amendments to the rules. In the long-term it assists individuals seeking consents to understand why consents is required. The inclusion of a statement of the Issues along with an explanation and the principle reasons for the objectives and policies serves as an educative tool as it sets out the importance of wetlands in the region, the need for their protection and the responsibilities of those seeking consent.

The deletion of cross referencing to Objectives, Policies and Rules it is submitted makes it more difficult for an individual seeking consent to establish whether consents maybe required or what other consents maybe required.

#### *Relief Sought*

Retain Issues, Explanations, Principle Reasons, Anticipated Results, and cross references to Objectives, Policies and Rules. Amend wording and numbering of these to account for changes and delete words no longer relevant as a result of the removal of Schedule 10 and the term type A and Type.

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## SPECIFIC SUBMISSION

### CHAPTER 10 WETLANDS

#### 10.3.1 Objective

##### *Comment*

The objective creates an obligation to maintain or enhance wetlands and their values and services within the region. This objective fails to form a framework to preserve wetlands and to protect and preserve the margins of wetlands, including significant wetlands. The proposed objective does not set out all that is required by Council to give effect to Part 2 of the RMA.

##### *Relief sought*

Delete Objective 10.3.1 and replace with:

To recognise and provide for the protection of the natural character, biodiversity and other values of wetlands in the regions.

#### 10.4.1 Policy

##### *Comment*

This policy lists the significant wetland values of Otago. It is assumed that these values are the criteria that were used to assess individual wetlands to ascertain if they are considered to be significant or not. Due to this policies Explanation being deleted this is not obvious. The values/significance criteria that are included in this policy are inconsistent with recent Environment and High Court case law as discussed previously in this submission. The manner in which this plan change as been prepared it does not allow for further significant wetlands to be identified. This is an important because the significance criterion that has been used to identify the wetlands on Schedule 9 is incomplete and it is possible that not all significant wetlands within the region have been identified.

While these values encompass many of the ecological criteria adopted by the Environment Court in *West Coast Regional Council v Friends of Shearer Swamp Inc* [EnvC 2010/435] and reaffirmed in the High Court [CIV-2010-409-002466], a key criterion to capture representative wetlands is not adequately covered. The listed values focus on capturing examples of the best remaining wetlands. Recognising and providing for representative wetlands is essential to meet the objectives of the New Zealand Biodiversity Strategy and fulfilling the Council's RMA obligations of maintaining biodiversity.

The Society acknowledges that mapping of wetlands has largely been completed and that it would be a costly exercise to re-survey the wetlands according to the Criteria recently adopted by the Environment Court in

West Coast Regional Council v Friends of Shearer Swamp Inc [EnvC 2010/435] and reaffirmed in the High Court [CIV-2010-409-002466]. However there is no certainty that all the significant wetlands in Otago have been identified. There is a possibility that representative wetlands, i.e. wetlands which contain indigenous wetland vegetation types or indigenous fauna assemblages that were typical for, and has the attributes of, the relevant class of wetland as it would have existed prior to 1840, have been overlooked.

There needs to be provisions in the plan that have regard to and protect wetlands that are not included in Schedule 9 that may meet criteria for significance.

#### *Relief sought*

Amend Policy 10.4.1 to read:

The regionally significant wetland values of Otago's wetlands that are identified in Schedule 9 are:

...

Insert new policy and explanation:

#### Policy x.x.x:

To recognise and protect wetlands that are shown to have significant values that are not identified on Schedule 9, and to protect those values by controlling activities in wetlands and their margins to ensure their ecosystem functioning, natural character and habitat values are sustained.

#### Explanation:

It is stated in the introduction to Schedule 9 that Schedule 9 is not exhaustive, and therefore not all wetlands with significant values have been identified. This policy recognises and provides for the protection of the values of those unidentified wetlands.

Insert new policy and explanation:

Unidentified wetlands will be assessed using the following ecological criteria:

1. Ecological context
2. Representative wetlands
3. Rarity
4. Distinctiveness

#### Explanation:

It is possible that not all wetlands with significant values have been identified on Schedule 9. This policy recognises and provides for the protection of those wetlands. This policy also introduces an ecological criteria (Appendix XX) that will be used when assessing those wetlands. Where an assessment of any wetlands is required for resource consent purposes it shall be carried out in accordance with the ecological criteria set out in Appendix xx.

Insert new policy and explanation:

Where an assessment has been undertaken on a wetland that is not identified on Schedule 9 and is shown to be significant these wetlands will be added to Schedule 9.

Explanation

It is possible through resource consent processes that significant wetlands not included on Schedule 9 will be identified. It is appropriate that these significant wetlands are added to Schedule 9. In doing so the wetlands on Schedule 9 will be derived from two different processes (Policy 10.4.1 and Policy x.x.x (see policy directly above)) and this is appropriate because the management of these significant wetlands will be consistent. Changes to Schedule 9 to include wetlands will be the subject of a plan change process.

**10.4.1A Policy**

*Comment*

This is not a policy; 10.4.1A defines what a 'Regional Significant Wetlands' (in terms of Proposed Plan 2). This policy should either be included within a footnote, added to an explanatory note or added to the glossary.

*Relief sought*

Delete Policy 10.4.1A and insert into a more appropriate place within the Water Plan.

**10.4.1B Policy**

*Comment*

This is not a policy; 10.4.1B explains and describes what Schedule 9 is. This policy should be included either within a footnote, added to an explanatory note or to the glossary.

*Relief sought*

Delete Policy 10.4.1B and insert into a more appropriate place within the Water Plan.

**10.4.2 Policy**

*Comment*

Support. This policy appropriately recognises that adverse effects on Regional Significant Wetlands should be avoided in preference of remedying or mitigating.

*Relief sought*

No change. However the 'Explanation' and the 'Principal Reasons for Adopting' should be reinstated and amended to be consistent with the plan change and the amendments sought by this submission.

## **New Policy**

### *Comment*

There are a considerable number of other wetlands not identified in Schedule. Section 6 (a) RMA requires Council to 'recognise and provide for, as a matter of national importance..... the preservation of wetlands and their margins'. Council needs to consider all matters set out in Part 2. Whilst it is appreciated that some wetlands have been determined as not being significant it is likely that other wetlands should be protected for their natural character ecosystem functioning, biodiversity, aesthetics and amenity values.

### *Relief sought*

Insert new Policy and Explanation to read:

#### Policy x.x.x

To recognise and provide for the protection of wetlands by managing adverse effects of activities on the values present, including natural character, ecosystem functioning, biodiversity, aesthetics or amenity values.

#### Explanation

All wetlands are required to be managed sustainably in accordance with RMA, not just those are determined as being significant. Within Part 2 of the RMA wetlands are to be managed to protect biodiversity, natural character and other values.

## **10.4.6 Policy**

### *Comment*

This policy is an important tool for the implementation of non-regulatory management of wetlands within the region. This plan change has amended Chapter 15 'Methods other than Rules' and deleted 15.4.3. It is unclear how the council intends on implementing this policy with the proposed amendments to Chapter 15.

Proposed Policy 10.4.6(e) allows the Council to provide information on wetlands and their values to the community. This policy works alongside Policies (a) to (d) therefore it is inappropriate to insert 'or'.

### *Relief sought*

Amend Policy 10.4.6 so that the 'or' is deleted from 10.4.6(d) and reinstate the 'Explanation' and 'Principal reasons for adopting'.

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## CHAPTER 12 RULES: WATER TAKE, USE AND MANAGEMENT

### Rule 12.1.1A

#### *Comment*

This rule is supported. The non-complying status of the taking and use of surface water from Regionally Significant Wetlands is consistent with Part 2 and regional council functions as determined by the RMA.

#### *Relief sought*

Retain Rule as amended by Proposed Plan Change 2.

### Rule 12.1.2.4, 12.1.2.5 and 12.1.2.6

#### *Comment*

The deletion of 'water is not taken from' in the above rules appears to alter the intent of these rules. It is our reading that the intent of this amendment is to ensure water is not taken from a significant wetland **and** that the activity does not alter the water level or hydrological function of a wetland. This rule does not address takes and use of surface water that adversely impacts upon the natural character of wetlands not listed as regionally significant, or wetlands that may meet national significance criteria that have not been identified on schedule 9. This rule does not address takes and use of surface water that adversely impact upon the natural character of wetlands not listed as regionally significant, or wetlands that may meet national significance criteria that have yet to be assessed.

#### **Decisions sought**

Amend 12.1.2.4(b), 12.1.2.5 (a) and 12.1.2.6(a) to read:

The water is not taken from and there is no change to the water level or hydrological function, or no damage to the indigenous flora, fauna or its habitat, in or on any Regionally Significant Wetland, or wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

Add the following permitted rule conditions:

- (a) Effects on biological diversity and ecological values; and
- (b) Effects on the natural character of wetlands and their margins.

### Rule 12.1.3.1

#### *Comment*

Support in part. Forest and Bird supports the addition of (i). In order for Council to fulfill its resource management duties Council needs to also restrict its control to any effect on any wetland that meets specified criteria for significance.

*Relief sought*

Retain (i) and add new (j) and (l) to read:

(j) Effects on biological diversity and ecological values; and

(k) Effects on the natural character of wetlands and their margins.

**Rule 12.1.4.8**

*Comment*

Support in part. Council responsibilities are greater than the identification of significant wetlands. There is no certainty that all significant wetlands have been captured and included in Schedule 9. The addition of further discretionary matters acknowledges that there may be adverse effects on wetlands other than significant wetlands and gives proper effect to Part 2 RMA, particular s6(c) and (a).

*Relief sought*

Add new discretionary matters:

(a) Effects on biological diversity and ecological values; and

(b) Effects on the natural character of wetlands and their margins.

Amend (xvii):

Any effect on any Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

**Rule 12.2.2.5 and 12.2.2.6**

*Comment*

The deletion of 'water is not taken from' in the above rules appears to alter the intent of these rules. It is our reading that the intent of this amendment is to ensure water is not taken from a significant wetland **and** that the activity does not alter the water level or hydrological function of a wetland. This rule does not address takes and use of surface water that adversely impact upon the natural character of wetlands not listed as regionally significant, or wetlands that may meet national significance criteria that have not been identified on schedule 9. This rule does not address takes and use of surface water that adversely impact upon the natural character of wetlands not listed as regionally significant, or wetlands that may meet national significance criteria that have yet to be assessed.

**Decisions sought**

Amend 12.2.2.5(b) and 12.2.2.6(a)

The water is not taken from and there is no change to the water level or hydrological function, or no damage to the indigenous flora, fauna or its habitat, in or on any Regionally Significant Wetland, or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.



**Rule 12.2.2.A**

*Comment*

Support in part. Council responsibilities are greater than the identification of significant wetlands. There is no certainty that all significant wetlands have been captured and included in Schedule 9. The addition of further discretionary matters acknowledges that there may be adverse effects on wetlands other than significant wetlands and gives proper effect to Part 2 RMA, particular s6(c) and (a).

*Relief sought*

Amend 12.2.2A.1(g) to read:

Any effect on and Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

Add new matters of control to read:

(h) Effects on biological diversity and ecological values; and

(i) Effects on the natural character of wetlands and their margins.

**Rule 12.2.3.4**

*Comment*

Support in part. Council responsibilities are greater than the identification of significant wetlands. There is no certainty that all significant wetlands have been captured and included in Schedule 9. The addition of further discretionary matters acknowledges that there may be adverse effects on wetlands other than significant wetlands and gives proper effect to Part 2 RMA, particular s6(c) and (a).

*Relief sought*

Amend (xiii) to read:

Any effect on and Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

Add new matters of discretion to read:

(a) Effects on biological diversity and ecological values; and

(b) Effects on the natural character of wetlands and their margins.

**Rule 12.3.1A**

*Relief sought*

Support, retain wording as proposed.

**Rule 12.3.2.1, 12.3.2.2 and 12.3.2.3**

*Comment*

There should be amendments to the rules so that it is explicit that damming or diversion of water within a Regionally Significant Wetland is not permitted (Rule 12.3.2.1 and 12.3.2.2).

To give proper effect to Part 2 of the RMA regional councils are required to sustainably manage all wetlands, not only those that are considered to be significant.

*Relief sought*

Amend 12.3.2.1(e) to read:

It is not within and there is no change to the water level of hydrological function, or no damage to the flora, fauna or its habitat, in or on any Regionally Significant Wetland; and

Amend 12.3.2.2(a) to read:

The water is not diver ted from and there is no change to the water level of hydrological function, or no damage to the flora, fauna or its habitat, in or on any Regionally Significant Wetland; and

Add new matters of discretion to 12.3.2.1, 12.3.2.2 and 12.3.2.3 to read:

(a) Effects on biological diversity and ecological values; and

(b) Effects on the natural character of wetlands and their margins.

**Rule 12.3.3.1**

*Comment*

The matters of discretion as proposed by the Proposed Plan Change 2 do not address or protect wetlands generally or wetlands that are significant that have not been identified in Schedule 9. As opposed to the previous restricted discretionary activity rules, Rule 12.3.3.1(a)(ii) addresses the natural character of wetlands by including the following matter: *The natural character of any affected water body*. This submission has already discussed the requirement to protect and manage all wetlands and their values.

*Relief sought*

Amend (aa) to read:

Any effect on and Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

Add new matters of discretion to read:

(o) Effects on biological diversity and ecological values.

**Rule 12.4.1.1**

*Comment*

This submission has already discussed the requirement to protect and manage all wetlands not just those listed in Schedule 9 for their natural character, biodiversity and amenity values.

*Relief sought*

Amend (a)(i) to read:

Any effect on and Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

**Rule 12.4.2.1**

This submission has already discussed the requirement to protect and manage all wetlands not just those listed in Schedule 9 for their natural character, biodiversity and amenity values.

*Relief sought*

Amend (c) to read:

Any effect on and Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

Add new matters of discretion to read:

(o) Effects on biological diversity and ecological values.

**Rule 12.5.1.1**

*Comment*

This submission has already discussed the requirement to protect and manage all wetlands not just those listed in Schedule 9 for their natural character, biodiversity and amenity values.

*Relief sought*

Amend 12.5.1.1(aa)

Discharge is not to enter into and there is to be no change in the water level or hydrological function, or no damage to the indigenous flora, fauna or its habitat, in or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

**Rule 12.5.2.1**

*Comment*

This submission has already discussed the requirement to protect and manage all wetlands not just those listed in Schedule 9 for their natural character, biodiversity and amenity values.

*Relief sought*

Amend 12.5.2.1(b):

Discharge is not to enter into and there is to be no change in the water level or hydrological function, or no damage to the indigenous flora, fauna or its habitat, in or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

Add new matter of discretion to read:

(n) Effects on biological diversity and ecological values.

**Rule 12.7.1.2**

*Comment*

In many instances these chemicals will be used to destroy pest weeds, including species such as crack willow, to protect the natural character and the indigenous biodiversity of wetlands. The way the rule is currently worded a resource consent would be required for this to occur.

*Relief sought*

Amend (e)

There is no change to the water level or hydrological function, or no damage to the indigenous flora, fauna or its habitat, in or on any Regionally Significant Wetland.

**Rule 12.8.1.1, 12.8.1.2, 12.8.1.3 and 12.8.1.5**

*Comment*

Discharge of agricultural waste and fertiliser can be toxic to wetland ecosystems. The proposed plan change amendments only relate to significant wetlands identified in Schedule 9.

*Relief sought*

Amend 12.8.1.1(k), 12.8.1.2(l), 12.8.1.3(l) and 12.8.1.5(c) to read:

There is no change to the water level or hydrological function, or no damage to the indigenous flora and fauna or its habitat, in or on any Regionally Significant Wetland, or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

**Rule 12.8.2.1**

*Comment*

This submission has already discussed the requirement to protect and manage all wetlands not just those listed in Schedule 9 for their natural character, biodiversity and amenity values.

*Relief sought*

Amend (aa) to read as follows:

Any effect on and Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

Amend (a)(ii) to read as follows:

The natural character of any affected water body and their margins

Add new matter of discretion to read:

(o) Any effects on biological diversity and ecological values.

**Rule 12.9.1.1 and 12.9.1.2**

*Comment*

This submission has already discussed the requirement to protect and manage all wetlands not just those listed in Schedule 9 for their natural character, biodiversity and amenity values.

*Relief sought*

Amend 12.9.1.1(a) and 12.9.1.2(a) to read as follows:

There is no change to the water level or hydrological function, or no damage to the indigenous flora and fauna or its habitat, in or on any Regionally Significant Wetland, or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

Add the following matters to Rules 12.9.1.1 and 12.9.2.1:

- (a) Effects on biological diversity and ecological values; and
- (b) There is no discharge to any surface water body including wetlands; and
- (c) Effects on the natural character of wetlands and their margins.

**Rule 12.9.2.1**

*Comment*

This submission has already discussed the requirement to protect and manage all wetlands not just those listed in Schedule 9 for their natural character, biodiversity and amenity values.

*Relief sought*

Amend (b) to read as follows:

Any effect on any Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

Amend (a)(ii) to read as follows:

The natural character of any affected water body and their margins

Add new matter of discretion to read:

(o) Any effects on biological diversity and ecological values.

**Rule 12.10.1.1**

*Comment*

This rule as currently worded does not provide Council with the necessary control on the potential adverse effects of the discharge of contaminants to wetlands.

*Relief sought*

Amend (a) to read:

There is no discharge into or change the water level or hydrological function, or no damage to the indigenous flora and fauna or its habitat, in or on any Regionally Significant Wetland, or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

**Rule 12.10.2.1**

*Comment*

This rule as currently worded does not provide council with the necessary control on the potential adverse effects of the discharge of contaminants to wetlands.

*Relief sought*

Amend (b) to read:

Any effect on any Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

Amend (a)(ii) to read as follows:

The natural character of any affected water body and their margins

Add new matter of discretion to read:

(m) Any effects on biological diversity and ecological values.

**Rule 12.11.2.1, 12.11.2.2 and 12.11.2.3**

*Comment*

Activities managed by these rules, including discharge of water that has been used for holding live organisms, have the potential to damage wetland, risks the introductions of diseases, antibiotics, and contaminants and needs to be controlled. The proposed amendment only relates to regionally significant wetlands and does not give proper effect to Part 2 RMA.

*Relief sought*

Amend 12.11.2.1(g), 12.11.2.2(a) and 12.11.2.3(h) to read:

There is no discharge into or change to the water level or hydrological function, or no damage to the indigenous flora and fauna or its habitat, in or on any Regionally Significant Wetland, or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

## CHAPTER 13 RULES LAND USE ON LAKE OR RIVER BEDS OR REGIONALLY SIGNIFICANT WETLANDS

### Rules 13.2.1.1, 13.2.1.2, 13.2.1.4, 13.2.1.5, 13.2.1.6 and 13.2.1.8

#### *Comment*

The erection of structures over a wetland has the potential to adversely affect wetlands especially regionally significant wetlands. Fences should not be erected on or within wetlands as animals tend to congregate along fences, and regionally significant wetlands should not be grazed. Digging of wetlands for placement of pipes lines and cables can cause irreversible damage to wetlands. These activities require discretionary consent.

#### *Relief sought*

Amend rules to read as follows:

The...bed of a lake or river, ~~or any Regionally Significant W~~ wetland is a permitted activity, providing:

Add the following permitted activity conditions:

- a) The structure is not in a Regionally Significant Wetland or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.
- b) Effects on biological diversity and ecological values; and
- c) Effects on the natural character of wetlands and their margins.

### Rule 13.2.1.7

#### *Comment*

It is inappropriate to provide for the erection of bridges or culverts in any Regionally Significant Wetland as a permitted activity as it does not provide Council any control over the adverse effects of these activities on other wetlands.

Provision of permitted status for board walks in Regionally Significant Wetlands is supported provided it is for recreation or scientific purpose. However the construction of culverts and bridges pose significant threats to wetlands and need to be controlled through a discretionary consent process. These activities should be separated out with a new rule to address boardwalks.

#### *Relief sought*

Amend existing 13.2.1.7 rule to read as follows:

The erection or placement of any bridge, ~~boardwalk~~ or culvert in, on or over the bed of a lake or river, ~~or any Regionally Significant~~ wetland is a permitted activity, providing:

Amend 13.2.1.7(b) to delete 'boardwalk'.



Add the following permitted activity conditions:

- a) The structure is not in a Regionally Significant Wetland or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.
- b) Effects on biological diversity and ecological values; and
- c) Effects on the natural character of wetlands and their margins.

Add new rule:

The erection or placement of any boardwalk in, on or over the bed of a lake or river, or any Regionally Significant Wetland, is a **permitted** activity, providing:

- (a) The boardwalk is for recreational or scientific purposes and its erection or placement, does not cause any flooding, nor cause any erosion of the bed or banks of a Regionally Significant Wetland, and
- (b) The site is left tidy following the erection or placement.

#### **Rule 13.2.2.1**

##### *Comment*

This rule as currently worded does not provide Council with the necessary control on the potential adverse effects of the discharge of contaminants to wetlands.

##### *Relief sought*

Amend (aa) to read:

Any effect on any Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

Amend (a)(ii) to read as follows:

The natural character of any affected water body and their margins

Add new matter of discretion to read:

(m) Any effects on biological diversity and ecological values.

#### **Rule 13.3.2.1**

##### *Comment*

Support in part. Rule 13.3.2.1(aa) seeks discretion around activities on both Schedule 9 (Regional Significant Wetland) or other wetlands that may have significant values. Those values should be assessed against best practice criteria according to the significant criteria (Appendix XX Ecological Criteria).

##### *Relief sought*

Delete '~~or any Regional Significant~~' from the introduction to the rule

Amend (aa) to read:

Any effect on any Regional Significant Wetland or on any regionally significant wetland that meets the significance criteria listed in Appendix XX Ecological Criteria; and

Add new matter of discretion to read:

(m) Any effects on biological diversity and ecological values.

#### **Rule 13.4.1.1**

##### *Comment*

This rule as currently worded does not provide council with the necessary control on the potential adverse effects of the discharge of contaminants to wetlands.

##### *Relief Sought*

Delete '~~or any Regional Significant~~' from the introduction to the rule.

Amend (f) to read:

There is no change to the water level or hydrological function, ~~or no~~ and damage to the indigenous flora, fauna or its habitat, in or on any ~~Regional Significant Wetland~~ wetland is managed.

#### **Rule 13.4.2.1**

##### *Comment*

This rule as currently worded does not provide council with the necessary control on the potential adverse effects of the discharge of contaminants to wetlands.

##### *Relief sought*

Delete '~~or any Regional Significant~~' from the introduction to the rule.

Amend

Amend (aa) to read:

Any effect on any Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

Amend (a)(ii) to read as follows:

The natural character of any affected water body and their margins

Add new matter of discretion to read:

(m) Any effects on biological diversity and ecological values.

**Rule 13.5.1.1**

*Comment*

This rule as currently worded does not provide council with the necessary control on the potential adverse effects of the discharge of contaminants to wetlands.

*Relief sought*

Amend (i) as follows:

Except for activities covered by Rules 13.2.1.5, 13.2.1.6, or 13.2.1.8, there is no change to the water level or hydrological function, or no damage to the indigenous flora, fauna or its habitat, in or on any Regional Significant Wetland, or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria

Amend (f) as follows:

...of sediment to the lake, river or wetland...

**Rule 13.5.1.8**

*Comment*

The grazing of livestock especially deer, cattle and goats degrades wetlands and is not consistent with the sustainable management or protection of the natural character of wetlands. Farm intensification and dairy conversions are posing ever greater threats to remaining wetlands. Regionally significant wetlands should be fenced and grazing by live stock should be managed appropriately. Council is not able to manage the adverse effects by livestock on significant wetlands relying on a permitted rule.

*Relief sought*

Delete '~~or any Regionally Significant~~' from the introduction to the rule.

Delete permitted condition (d).

Amend (e) to read as follows:

The activity does not ~~significantly disturb~~ adversely affect indigenous...

Add new condition:

The activity is not within any Regionally Significant Wetland identified in Schedule 9 or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

**Rule 13.5.2.1**

*Comment*

This rule as currently worded does not provide council with the necessary control on the potential adverse effects of the discharge of contaminants to wetlands.

*Relief sought*

Delete '~~or any Regionally Significant~~' from the introduction to the rule.

Amend (aa) to read:

Any effect on any Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.

Amend (a)(ii) to read as follows:

The natural character of any affected water body and their margins

Add new matter of discretion to read:

(m) Any effects on biological diversity and ecological values.

**Rule 13.6.1.1**

These are unwanted organisms and it is inappropriate to only make them prohibited in Regionally Significant Wetlands and not all wetlands. There are three additional species that are equally problematical that should be added to this list.

*Relief sought*

Amend as follows:

... to the bed or water of any Otago lakes, river or any ~~Regionally Significant~~ Wetland, is a prohibited activity for which no resource consent will be granted.

Add the following species:

Glyceria species

Alder (Alnus species)

Crack Willow

Gray Willow

**Rule 13.6.2.0**

*Comment*

Forest & Bird supports providing for the planting of appropriate New Zealand native plants. Wetland restoration would be enhanced if the permitted plants were restricted to eco-sourced (native plants from local seed sources) New Zealand native species that are appropriate for the wetland ecosystem. Eco-sourced plants

and seeds are available. Eco-sourcing maintains natural plant distributions and gene pools. This ensures restored vegetation is as natural as it can be considering it is planted. Patterns of genetic variation reflect plant distribution.

*Relief sought*

Add the following permitted rule condition:

All plants and seeds are eco-sourced and appropriate for the specific wetland ecosystem.

**Rule 13.6.3.1**

*Comment*

This rule as currently worded does not provide council with the necessary control on the potential adverse effects of the discharge of contaminants to wetlands.

*Relief sought*

Amend as follows :

...or any Regional Significant Wetland or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria...

**Rule 13.7.1.2**

*Comment*

This rule as currently worded does not provide council with the necessary control on the potential adverse effects of the discharge of contaminants to wetlands.

*Relief sought*

Amend as follows:

The removal or clearance...~~Regional Significant~~ wetlands, is a permitted activity providing:

Add the following condition:

Damage to indigenous flora and habitats or indigenous fauna managed.

**Rule 13.7.2.1**

*Comment*

Forest & Bird supports the removal of weeds from all wetlands. There are four further species that cause similar adverse effects that need to be included in the list.

*Relief sought*

Amend as follows :

...from the bed of any lake or river, or any ~~Regional Significant~~ wetland, is a...

Add the following species:

*Glyceria species*

Alder (*Alnus species*)

Crack Willow

Gray Willow

Alder (*Alnus species*)

Crack Willow

Gray Willow

### **13.7.3 Discretionary activities: Resource consent required**

13.7.3.1 Unless covered by Rules 13.7.1.1 to 13.7.2.1, removal or clearance of plant material from any Regionally Significant Wetland, is a **discretionary** activity.

#### **Forest and Bird Submission**

Forest and Bird agrees there may be need for discretionary consents for some removal of exotic species from significant wetlands. However the removal of indigenous vegetation from wetlands should be avoided, as this does not promote the sustainable management of wetlands nor the protection of significant wetlands, the natural character, amenity and intrinsic values of wetland ecosystems and should be given non complying status.

#### **Decisions sought**

1. Add the word "exotic" so that 13.7.3.1 reads:

13.7.3.1 Unless covered by Rules 13.7.1.1 to 13.7.2.1, removal or clearance of **exotic** plant material from any Regionally Significant Wetland, is a **discretionary** activity.

2. Add new non-complying rule to read:

Removal or clearance of **native** plant material from any Regionally Significant Wetland, or **any wetland that meets the significance criteria listed in Schedule #**; and is a **non-complying** activity.

#### **Schedule 9 Significant Regional Wetlands**

Forest and Bird welcomes the transfer of most of the Schedule 10 and newly identified wetlands to Schedule 9.

The use of topographical maps is inadequate to delineate the wetlands and ensure that there are adequate buffer margins. All regionally significant wetlands should be mapped using aerial photographs and cadastral boundaries. Current aerial photographs are also important in ensuring that the rules are adhered to, and are useful for enforcement purposes should the need arise.

### Decision Sought

All Regionally Significant Wetlands, including those above 800m be mapped using detailed current aerial photographs and cadastral boundaries.

### Additional Wetlands to be added to Schedule 9

#### Tahakopa Marsh Complex

The boundaries on Map F40 Wetland 145 only partially cover this wetland complex. The entirety of this wetland and surrounding area shown as wetland on the topo map needs to be listed in schedule 9 as a regionally significant wetland. Forest and Bird notes that this wetland is extremely threatened by an infestation of Alder which needs removal before it becomes an intractable weed in the wetlands and waterways. This should be noted on the inventory of wetlands.

See Google maps photo below.

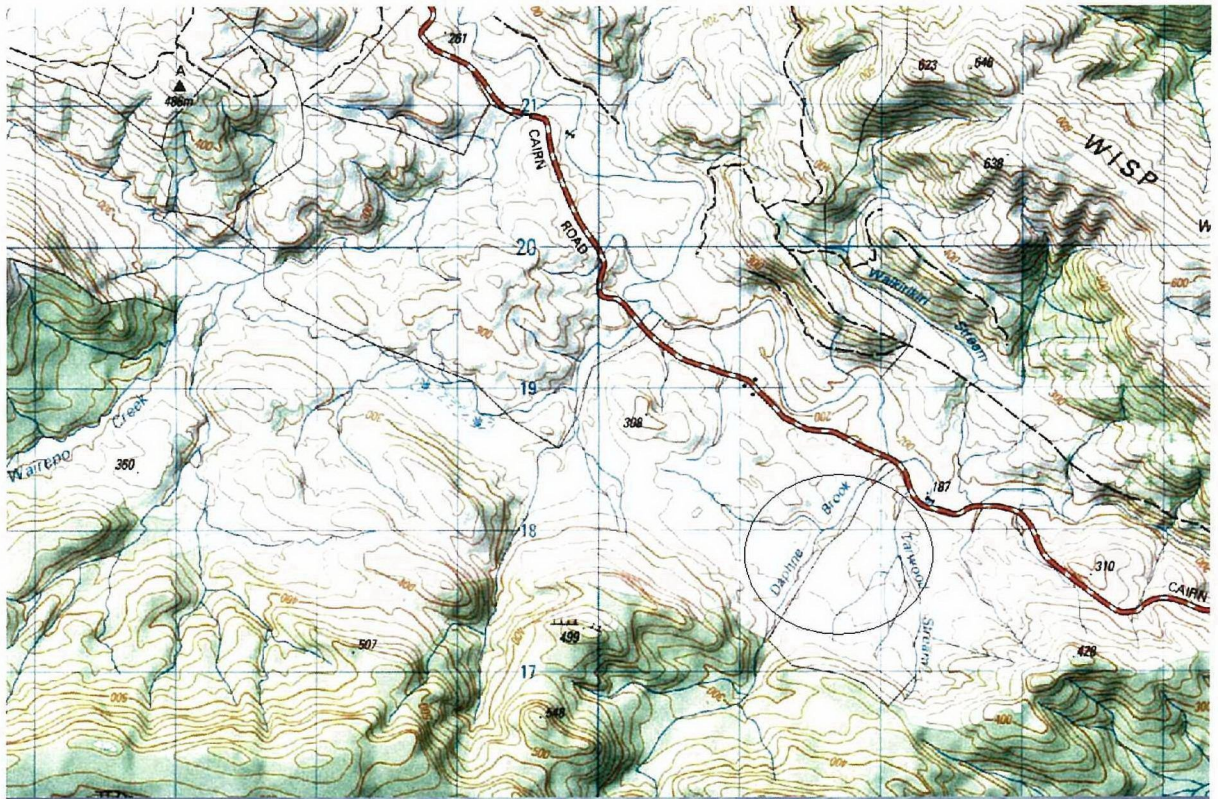
#### Tahakopa Marsh Complex



**Daphne Tarwood Peat Dome G46 325178**

This wetland in the catchment of the Catlins River is dominated by characteristic bog plants such as red tussock, *Empodisma minus*, and sphagnum. It also contains the threatened *Coprosma elatirioides*.





## Appendix XX Ecological Criteria

### 1. Ecological Context

The ecological context of the wetland has one or more of the following functions and or attributes:

- a. a role in protecting adjacent ecological values, including adjacent and downstream ecological and hydrological processes, indigenous vegetation, habitats or species populations; or
- b. is a habitat for critical life history stages of indigenous fauna including breeding/spawning, roosting, nesting, resting, feeding, moulting, refugia, migration staging points (as used seasonally, temporarily or permanently); or
- c. it contributes to ecological networks (such as connectivity and corridors for movement of indigenous fauna); or
- d. it contributes to the ecological function and processes within the wetland.

### 2. Representative Wetlands

A representative wetland is one that contains indigenous wetland vegetation types or indigenous fauna assemblages that were typical for, and has the attributes of, the relevant class of wetland as it would have existed prior to 1840.

The criterion will be satisfied if the wetland (not including pakihi wetlands) contains indigenous wetland vegetation types that have the following attributes:

Either (a):

- i. The indigenous wetland vegetation types that are typical in plant species composition and structure; and
- ii. The condition of the wetland is what would have existed prior to 1840 in that:
  - indigenous species dominate; and
  - most of the expected species and tiers of the wetland vegetation type(s) are presentfor the relevant class of wetland.

Or (b):

- i. The wetland contains indigenous fauna assemblages that:
  - are typical of the wetland class; and
  - indigenous species are present in most of the guilds expected for the wetland habitat type.

The representative wetland criterion applies to the whole or part of the wetland irrespective of land tenure.

Each wetland is to be assessed at the ecological district and freshwater bio-geographic unit scale.

### 3. Rarity

The wetland satisfies this criterion if:

- a. nationally threatened species<sup>1</sup> are present<sup>2</sup>; or
- b. nationally at risk species or uncommon communities or habitats are present and the population at this site has an important contribution to the national population and distribution of a species or number of at risk species or distribution and extent of threatened or uncommon communities or habitats.; or
- c. regionally uncommon species are present; or
- d. is a member of a wetland class that is now less than 30% of its original extent as assessed at the ecological district and the freshwater bio-geographic unit scales; or
- e. excluding pakihi, it contains wetland ecosystems that re identified as historically rare by Williams et al (2007).

### 4. Distinctiveness

The wetland satisfies the distinctiveness criterion if it has special ecological features of importance at the international, national, freshwater biogeographic unit or ecological district scale including:

- a. intact ecological sequences such as estuarine wetland systems adjoining tall forest species distribution limit; and
- b. an unusual characteristic (for example an unusual combination of species, wetland classes, wetland structural forms, or wetland landforms).

### Explanation

The wetland classes may be determined in a number of ways including the classification *index* of Johnson and Gerbeaux (2004).

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<sup>1</sup> The Threatened and At Risk categories are defined in the current version of the New Zealand threat classification system (Townsend et al 2008). Species are reassessed according to these categories approximately every three years.

<sup>2</sup> For mobile species such as kotuku this requires some assessment of the importance of the site for the species ie the intention is not to include areas such as wet pasture where birds may be foraging.

Wetland indigenous vegetation types are identified with reference to the dominant plant species that are present, the structural class, wetland class and hydrosystem (see for example Johnson and Gerbeaux (2005)) or similar method.

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**SUBMISSION FORM**  
**Proposed Plan Change 2**  
**(Regionally Significant Wetlands)**  
**to the Regional Plan: Water for Otago**

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

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29 JUL 2011  
BY: SP Office use only 4:53 PM

Full name of submitter: Bronwyn Judge

Name of organisation (if applicable): Herbert Heritage Society

Postal address: P.O. Box 351 Oamaru

Postcode: Oam 9444

Telephone: 03 4395 660 Fax: N/A

Email: m.judge@xtra.co.nz

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: B. Judge Date: 29/7/11

(or person authorised to sign on behalf of person making submission).

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

Trade competitor's declaration (if applicable)  
I could gain through trade competition from a submission, but my submission is limited to addressing adverse environmental effects directly impacting my business.

Signature of submitter: .....

**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)

Regionally significant Wetlands  
Rules R 118 13.5.1.8  
Page 67 of Proposed Plan Change 2

**My submission is:**

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

I would like the above reference to be amended  
— Since the wetlands this plan change addresses  
are significant I would like it to be a requirement

rivers / estuaries

...that all wetlands MUST be fenced off from livestock... unless the grazing of livestock through the wetland can be considered to be proven beneficial to the wetland in question or that the procedure for fencing would be detrimental

I seek the following decision from the local authority: to the said wetland

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

...It is unreasonable to expect members of the public to be responsible for observing detrimental effects to the environment... They have neither the time nor the money... and POC and ORC have neither the manpower or budget to do so comprehensively either on a meaningful day to day basis nor in my experience can farmers be expected to self police their activities when it results in financial benefits and/or costs

...In my experience a rule may be grumbled about but ~~never~~ accepted whereas community pressure for a farmer to be selfless or environmentally minded only results in the fracturing of the community into conservationists and land developers

**SUBMISSIONS MUST BE RECEIVED BY 5.00 PM, FRIDAY 29 JULY 2011.**

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FreePost Authority ORC 1722



Otago Regional Council  
Private Bag 1954  
Dunedin 9054  
  
Attention Policy Team



**SUBMISSION FORM**  
**Proposed Plan Change 2**  
**(Regionally Significant Wetlands)**  
**to the Regional Plan: Water for Otago**

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

OTAGO REGIONAL COUNCIL  
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49

Office use only

Full name of submitter: KARL FRANK BURGESS

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

Postal address: 87 LAKESIDE RD, 2RD, OWAKA

SOUTH OTAGO Postcode: 9586

Telephone: 03 415 8846 Fax: .....

Email: .....

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: 29/7/11  
 (or person authorised to sign on behalf of person making submission).

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

Trade competitor's declaration (if applicable)

I could gain through trade competition from a submission, but my submission is limited to addressing adverse environmental effects directly impacting my business.

Signature of submitter: [Signature]

**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)

Catlin's River Wetland  
proposed plan change 2 (Regionally Significant  
Wetland  
Reference A 353238

**My submission is:**

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

I oppose having to get Resource Consent  
to clear existing ditches to keep them  
safe for stock. The wetland will never

be developed or ploughed but the ditches  
need to be safe so the stock can graze  
the ~~go~~ grazable land above the wetland

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

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

If I have to get consent I do not  
want to have to get it every year.  
Consent should last for 35 years

Fold

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