

Submission	
TO:	Otago Regional Council
DATE:	29 July 2011
PLAN CHANGE:	Proposed Plan Change 2 (Regionally significant wetlands) to the Regional Plan: Water for Otago (Water Plan)
DESCRIPTION OF THE PLAN CHANGE	<p>The Otago Regional Council has released for public comment a consultation draft of Plan Change 2 (Regionally Significant Wetlands). The proposed plan change has the following components;</p> <ul style="list-style-type: none"> • Refining the mapped extent of the Schedule 9 wetlands; • Moving the Schedule 10 wetlands that have regionally significant wetland values into Schedule 9, and removing the remainder of the additional wetlands from the Plan; • Improving provisions, including policies and rules, for regionally significant wetlands and regionally significant wetland values; • Giving priority to avoiding the adverse effects of activities on regionally significant wetlands, regionally significant wetland values, and the values of those wetlands higher than 800 metres above sea level; and • Moving the wetland values into a wetland inventory that will sit outside the Regional Plan: Water for Otago.

Submitter(s):

Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki , Te Rūnanga o Ōtākou, and Hokonui Rūnanga.

We wish to lodge a submission on the above plan change.

Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou, and Hokonui Rūnanga oppose this plan change.

We do wish to be heard in support of this submission at a hearing, and we request an opportunity to expand on our submission. If others make a similar submission, we will consider presenting a joint case with them

1.0 INTRODUCTION

1.1 Kaitiaki Rūnaka

The Te Rūnanga o Ngāi Tahu Act 1996 describes the takiwā of Kā Papatipu Rūnanga.

The takiwā of Te Rūnanga o Moeraki is based at Moeraki and extends from the Waitaki River to the Waihemo (Shag) River. The takiwā of Kāti Huirapa Rūnaka ki Puketeraki centres on Karitane and extends from the Waihemo River (Shag River) to Purehurehu Point (north of Heyward Point). The takiwā of Te Rūnanga o Ōtākou centres on Otakou and extends from Purehurehu Point to Te Matau (the Clutha River). The takiwa of Hokonui Runaka centres on the Hokonui region and includes a shared interest in the lakes and mountains between Whakatipu-Waitai and Tawhitarere with other Murihiku Rūnanga and those located from Waihemo southwards.

Nga Rūnanga share an interest in the inland lakes and mountain ranges to the western coast with Rūnanga to the North and to the South.

1.2 Kaitiakitaka

The rights of Kāi Tahu are derived through whakapapa. Rights are accompanied by responsibilities. Kāi Tahu, as tangata tiaki, have a fundamental duty to protect the natural world of which they are a part. The tangata tiaki exercise kaitiakitanga.

The term has received recognition in Section 7(a) of the Resource Management Act 1991 and is defined in the Act as "the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Māori in relation to natural and physical resources; and includes the ethic of stewardship".

Ngai Tahu believe that people, flora, fauna as well as natural phenomena such as forest, waters, mist, wind and rocks, possess a mauri or life force. The primary management principle for Ngai Tahu is the protection of the mauri of a resource from desecration. Concepts such as tapu, noa and rahui are therefore applied by tangata tiaki to protect the mauri of a resource.

1.3 Tino Rangatiratanga

The concept of Tino Rangatiratanga refers to Kāi Tahu having the right to make decisions concerning resources within their takiwā. The right to manage and control resources is guaranteed by Article II of the Treaty of Waitangi.

1.4 Kāi Tahu Association with Wai Māori and Repo Raupo (Wetlands)

Preservation of the integrity of valued waterways is an important aspect of the responsibilities of those members of Kāi Tahu Whānui that are identified as tangata tiaki. The values (both tangible and intangible) associated with specific waterbodies include:

- The role of particular water bodies in unique tribal creation stories;
- The role of those water bodies in historical accounts;
- The proximity of important wāhi tapu, settlement or other historical sites in or adjacent to specific water bodies;
- The use of water bodies as access routes or transport corridors;
- The value of waterways as traditional sources of mahinga kai and other cultural materials; and
- The continued capacity for future generations to access, use and protect the resource.

Kāi Tahu place a high value upon water bodies that possess a healthy mauri and are fit for cultural purposes. While there are also many intangible qualities associated with the spiritual presence of rivers, elements of physical health which Kāi Tahu use to reflect the status of mauri and to identify the enhancements needed include:

- Aesthetic qualities e.g. clarity, natural character and indigenous flora and fauna;
- Life-supporting capacity and ecosystem robustness;
- Depth and velocity of flow;
- Continuity of flow from the mountain source of a river to the sea;
- Productive capacity; and
- Fitness for cultural usage.

The cultural importance and management of water is addressed through the Te Rūnanga o Ngāi Tahu Freshwater Policy (1999), and through the objectives and policies of the Kāi Tahu ki Otago Natural Resource Management Plans (1995, 2005).

The Te Rūnanga o Ngāi Tahu Freshwater Policy includes the following kaupapa (policy) for the management of freshwater resources:

- Water plays a unique role in the traditional economy and culture of Kāi Tahu. Without water no living thing, plant, fish or animal can survive.
- Water is a taonga. Water has an inherent value that should be recognised in the event of potentially competing uses. Taonga value refers to values associated with the water itself, the resources living in the water and the resources in the wider environs that are sustained by the water. Taking, using and disposing of water can have drastic effects on the environment and the values Kāi Tahu accord to a waterbody.
- Water is a holistic resource. The complexity and interdependency of different parts of the hydrological system should be considered when developing policy and managing the water resource.
- Water is a commodity that is subject to competition. An understanding of the significance and value of water to Kāi Tahu and other stakeholders is necessary to change the existing behaviour from one that prioritises consumptive uses and permits inefficient use towards one that recognises and provides for cultural and ecological values as priorities.
- Water has many stakeholders. The interdependency of different parts of the hydrological system creates many stakeholders, including other organisms and humans (both current and future generations). The Resource Management Act 1991 confirms that future generations are also stakeholders. From Kāi Tahu's perspective, the present generation has an obligation to pass on healthy water resources to future generations.
- Water should be managed at the local level because most threats to waterbodies are local. Responsibility for management should therefore be delegated to those organisations that have a personal stake in its overall health and condition.

The Te Rūnanga o Ngāi Tahu Freshwater Policy and the Kāi Tahu ki Otago Natural Resource Management Plans are relevant planning documents that are "... recognised by an iwi authority and lodged with the council". Therefore the Otago Regional Council is required to take these planning documents into account in changing the Regional Plan: Water for Otago.¹

2.0 GENERAL SUBMISSIONS

2.1 In managing a water resource Council is required to take into account the relevant provisions of the Resource Management Act 1991, and relevant planning documents prepared under that Act. These planning documents include the Proposed National Policy Statement (NPS) on Freshwater Management, the Regional Policy Statement (RPS) for Otago, and the existing objectives and policies of the Regional Plan: Water for Otago.

Specifically S37 (3) of RMA requires a regional plan to "give effect to" an NPS and an RPS and S67 (4) states that a regional plan must not be "inconsistent with" another regional plan for the region.

2.2 Nga Rūnanga have a legitimate expectation that their interests will be accommodated given the statutory and policy imperatives with respect to freshwater. Regrettably, nga Rūnanga are of the opinion that the proposed plan change does not adequately recognise and provide for the association of nga Rūnanga with their ancestral lands and waters and is, in part, contrary to the principles of Te Tiriti o Waitangi (Treaty of Waitangi).²

2.3 Ngai Rūnanga support the intent of the Plan Change 2:

- *Protecting more wetlands that are regionally significant,*
- *Strengthening protection for regionally significant wetlands,*

Nga Rūnanga support the proposed changes to the Regional Plan: Water for Otago provided that there is clarity over nga Rūnanga involvement in the identification of regionally significant wetlands. There must be a mechanism or process that will allow nga Rūnanga to identify and add wetlands to Schedule 9 – Regionally Significant Wetlands. This mechanism or process must also ensure that nga Rūnanga can in future add created or restored wetlands to the Schedule.

¹ Resource Management Act 1991 s66(2A)(a)

² Resource Management Act 1991, s6(e) and s8 respectively.

The added protection provided to regionally significant wetlands is irrelevant if wetlands nga Rūnanga know to be wāhi taonga to them are not included within Schedule 9. Therefore, there needs to be clarity over the involvement of Nga Rūnanga in the process for adding wetlands to Schedule 9.

In summary, throughout the plan changes have been made to add protection to wetlands within Schedule 9 – Regionally significant Wetlands. However, Nga Rūnanga have reservations over whether the plan change will protect all wetlands of importance to them.

Nga Rūnanga need to know that the wetlands in Schedule 9 – Regionally significant wetlands include all wetlands significant to them. If not there needs to be a process or a mechanism to achieve this.

2.4 Nga Rūnanga support the intent of the following changes to the plan:

- *Making provisions easier to read and understand*

Nga Rūnanga support these changes provided that by making the plan easier to read and understand, important details are not lost. In Objective 10.3.1, for example, the values listed from A to D have been removed one of which is an explicit link to:

(d) Kai Tahu cultural and spiritual beliefs, values and uses

This detail is included in the *Proposed plan change 2 – Regionally significant wetlands. Section 32 Report. Summary of alternatives, benefits and costs under 2.1 Wetlands, wetland values and threats* but has been removed from the plan itself.

It appears now that Kai Tahu values are only listed in Policy 10.4.1 A6 in this context:

A6: Wetland which is highly valued by Kai Tahu for mahika kai or other waahi taoka.

This provides insufficient recognition of the role of nga Rūnanga as kaitiaki. Nga Rūnanga need to ensure that not just mahika kai or other wāhi taoka

associated with wetlands are protected but that all cultural and spiritual beliefs, values and uses associated with wetlands are protected. Without this provision in the plan nga Rūnanga are unable to be sure that their values will be recognized and protected. There needs to be explicit recognition and protection of Kāi Tahu cultural and spiritual beliefs, values and uses, as defined in Schedule 1D.

Nga Rūnanga oppose the removal of Kāi Tahu cultural and spiritual beliefs, values and uses from Objective 10.3.1. Nga Rūnanga suggests it remains within Objective 10.3.1 and is also added to Policy 10.4.1 A6.

2.5 Nga Rūnanga support the intent of the following changes to the plan change:

- *Providing better wetland information*

Nga Rūnanga support this kaupapa and may wish to be involved in this process in the future. However, this information is being placed into a separate, non regulatory inventory that sits outside of the Regional Plan: Water for Otago. While recognizing the need for flexibility, Nga Rūnanga may consider that there is little merit in being involved in this process as the information they give in terms of values and descriptions may not have any impact on ensuring the protection of the regionally significant wetlands.

Nga Rūnanga do wish to get involved in a process which will help inform the public of the importance of wetlands and the values associated with them but nga Rūnanga need to know this information will assist in protecting and enhancing these values.

2.6 Nga Rūnanga requests further information on the status of work on addressing cumulative effects and the associated timeframes council has for completing this work. This is mentioned in "*Proposed plan change 2 – Regionally Significant Wetlands. Section 32 Report. Summary of alternatives, benefits and costs. 4.3 Proposed Option.*"

Nga Rūnanga requests a commitment from the Otago Regional Council for addressing cumulative effects in the future. It is the opinion of Nga Rūnanga that addressing cumulative effects at an early stage is more cost effective than allowing cumulative degradation of wetlands to occur.

3.0 SPECIFIC SUBMISSIONS

3.1 10.4.2A: Where the avoidance, remedy of mitigation of adverse effects is not possible, financial contributions may be required to:

- (a) Improve, create or reinstate Regionally significant wetlands or regionally significant values where those have been degraded; and
- (b) Create or reinstate regionally significant wetlands or regionally significant wetland values where those have been lost

Nga Rūnanga want to see the condition of regionally significant wetlands improve rather than just being put back to an acceptable state if adverse effects occur. This would mean ensuring that mitigation improved regionally significant wetlands rather than just returning them to their past state.

Nga Rūnanga are open to achieving improvement in regionally significant wetlands (with associated environmental gains) by using all resources which could be provided. Nga Rūnanga support this provided that all stakeholders agree the goal is to use the resources available efficiently, to reduce cost and primarily provide a net environmental gain for wetlands.

Nga Rūnanga finally want clarity on the process for triggering the mitigation listed in Policy 10.4.2A. Who decides whether the mitigation of adverse effects is not possible? It is the opinion of Nga Rūnanga that they as kaitiaki should be consulted before a decision is reached that mitigation of adverse effects is not possible.

Outcome Sought	Amendment Requested
<p>To focus upon improving regionally significant wetlands, to achieve an overall environmental gain, rather than maintaining the status quo</p> <p>To achieve the outcomes using all resources available to stakeholders.</p>	<p>10.4.2A: Where the avoidance, remedy of mitigation of adverse effects is not possible (agreed upon by stakeholders including nga Rūnanga), financial contributions may be required to:</p> <p>(a) Restore or rehabilitate regionally significant wetlands or regionally significant values where those have been degraded; and</p> <p>(b) Restore or rehabilitate regionally significant wetlands or regionally significant values where those have been lost</p>

3.2 12.1.2.4:..... (b) 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

This provision is used throughout the plan. Nga Rūnanga support this addition but would like clarification on:

- Who carries out the assessment?
- How would changes to the water level or hydrological function, or damage to the flora, fauna or its habitat be assessed?
- Can the causes of these changes be adequately established? and
- How much "change" can be picked up by the assessment process? In particular, what provision is made in the assessment process for cumulative effects? There is otherwise a risk that only dramatic or marked changes to the wetland are picked up.

Nga Rūnanga would want an independent assessment done to determine whether there are changes to regional significant wetlands. Further, Nga Rūnanga do not support the permissive nature of this change to the plan as in many places within the plan (12.1.1.2, 12.2.2, 12.3.2, 12.9.1, 12.10.1) this provision has replaced the following provision as a permitted activity:

The water is not take from and wetland identified in schedule 9 or any wetland higher than 800 metres above sea level; and

Or

The discharge is not to any wetland identified in Schedule 9

Nga Rūnanga would argue that the proposed changes to the plan reduce the protection of regionally significant wetlands. Without clarification on the process for assessing changes or damage to wetlands, nga Rūnanga cannot be confident protection of regionally significant wetlands is increased by this plan change.

3.3 Chapter 13 – Rules: Land Use on Lake or River Beds or Regionally Significant Wetlands

The addition of Regionally Significant Wetlands to Chapter 13 means that the existing provisions concerning lakes and rivers now apply to wetlands. Nga Rūnanga are concerned that there are now activities that are permitted within regionally significant wetlands that may have a permanent impact.

The provisions where there could be a permanent impact to a regionally significant wetland include:

13.2.1.1: The erection of placement of any fence, pipe, line or cable over the bed of a lake or river, or any Regionally Significant Wetland is a permitted activity, providing:

(a)...

13.2.1.2: The placement of any pipe, line, or cable on or under the bed of a lake river, or any Regionally Significant Wetland, is a permitted activity, providing:

(a)...

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

(a)...

In comparison to these changes, within Rule 13.5 Alteration of a lake or river, or of a regionally significant wetland under permitted activity there is the additional provision (below) within 13.5.1, 13.5.3, 13.5.1.5A, 13.5.1.8:

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

This provision gives some strength to permitted activities which is missing in Rules 13.2.1.2 and 13.2.1.7. Although in the case of 13.5.1.5 the provision has been removed (below) Nga Rūnanga believe this again weakens the protection of regionally significant wetlands.

(f) *The activity does not occur within any wetland identified in Schedule 9 (13.5.1.6) (Removed)*

Outcome Sought	Amendment Requested
Nga Rūnanga request that the following provision be added to all permitted activities where it concerns permanent structures in or possible effects on regionally significant wetlands.	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. Or clarification that all rules under 13.2 are covered by the note in 13.2.1 and therefore have to comply with rules under 13.5.

3.4 13.6.1.1: The introduction of material of the following species...

Nga Rūnanga supports the addition of regionally significant wetlands to this provision.

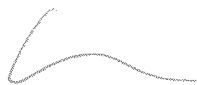
3.5 13.6.2.0: The introduction or planting of any New Zealand native plant to any Regionally significant wetland, is a permitted activity providing:
(a)...

Nga Rūnanga supports this addition as it may assist in the future restoration of wetlands.

Submission lodged on behalf Te Rūnanga o Moeraki, Kāti Huirapa Rūnanga ki Puketeraki , Te Rūnanga o Ōtākou, and Hokonui Rūnanga

Nahaku noa

Na



Chris Rosenbrock
Manager

Address for Service:

Tim Vial

Resource Management Planner

KTKO Ltd,

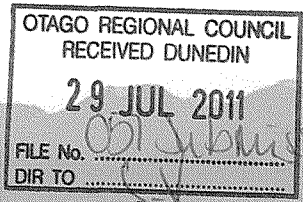
PO Box 446

Dunedin 9054

Phone Number: (DD) (03) 471 5487

E-mail: tim@kolkold.co.nz

39



Otago Regional Council
Private Bag 1954
Dunedin 9054

Submission Form -
Form Name: Proposed Plan
Change 2
Application ID: ORCNDFCH1/19
Application Date: July 29, 2011
Applicant Name: Shirley McKewen
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: Shirley McKewen
Address: 30 Thomas St
Waikouaiti
City: Dunedin
Phone: 4657499
Email: t.mckewen@clear.net.nz

1B

Organisation name (if applicable): (Hawksbury lagoon Inc)
Postcode: ()
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)

2B My submission is:

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

My submission is:

We have commissioned a report on improved water management of the Hawksbury Lagoon and Estuary (Wetlands) with a view to improving the ecological state and general amenity value. The main focus in achieving this is to improve the water quality of the lagoon if this is possible.

The study is half way with the report due later in year. Water quality and hydrological measurements are being undertaken and results are being collated now.

While at this stage it does not appear that the proposed plan change raises issues specific to the Hawksbury Lagoon, we will update the situation at the hearing.

As a group dedicated to the improvement of this wetland, we are increasingly aware of the important role wetlands play in sustaining a diverse ecology, filtering water and providing interest to our landscapes. In a sense the extent of loss makes all remaining wetlands significant. We would therefore like to see as many as possible of the remaining wetlands, classified as significant or not, preserved.

The Hawksbury Catchment includes runoff from both urban storm water and farming land. The study so far has reminded us of the strong influence that the quality of water draining from the catchment has on the water quality of our wetland so a healthy wetland is a shared responsibility for the entire community. We therefore endorse the Council's commitment to ongoing protection and promotion of wetlands, and education of all public as to their value. Our group has benefited greatly from such support already.

We also think that providing financial assistance or rates incentives for landowners to fence off wetlands and fund revegetation would be of great value.

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

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

1. Because wetlands benefit everyone, introduce a rate incentive for landowners to fence off and preserve wetlands on their property as there are many small wetlands of great value that have not been identified significant in this plan and which therefore face an uncertain future.
2. This would also allow the Council to set a timeframe for fencing off all significant wetlands in the knowledge that it was not causing hardship for landowners.
3. In identifying significant wetlands and promoting rehabilitation, ensure adequate weight is given to the pattern of wetlands in maintaining corridors and feeding sites for waterfowl
4. Ensure that there is an explicit requirement in the plan to keep wetland values up to date to use then when considering applications for activities.
5. RO8: To keep faith with this objective to "avoid", it follows that the default position on rules and policies on wetlands should be a conserved wetland rather than create permitted activities.
6. RO14: Policy 10.4.6 (d), change and for or.

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

[Values assigned to Hawksbury Lagoon.docx](#)

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

2E Office use only

Submission redirected to:

Hawksbury Lagoon

(Last update: July 2011)

Description:

A shallow fresh-brackish water lagoon at the mouth of the river, adjacent to the town of Waikouaiti. Little tidal influence within the lagoon as a causeway along the channel entrance restricts the entry of seawater.¹

Type/Class:

Saltmarsh²

Size:

43.3 ha

Altitude:

0–20 m above sea level.

Approximate location: (see *Regional Plan: Water – Maps for precise location*)

North of Stewart Street, Waikouaiti.

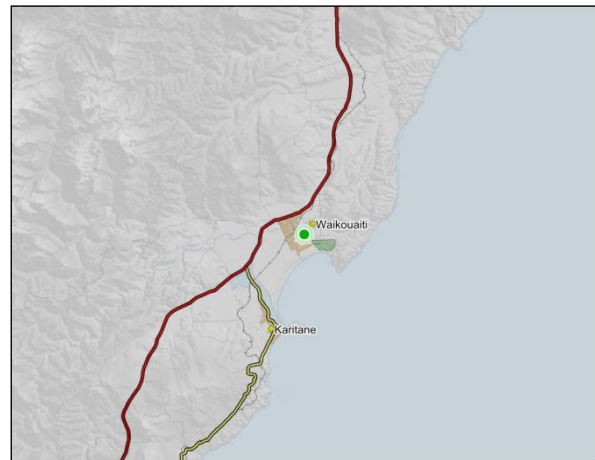
NZTM (centre point): E1418600 N4947400

Regional Plan: Water for Otago:

Schedule 9 Significant Wetland, no.58.

Territorial authority:

Dunedin City Council



Values:

Value	Description
A4	High degree of naturalness. ²
A5	Scarce in Otago in terms of its ecological or physical character. ²
A6	Highly valued by Kai Tahu for mahika kai or other waahi taoka. The wetland is of cultural importance to Kai Tahu as a mahika kai site where fish (especially eels and whitebait/inaka (<i>Galaxias</i> spp.)) and waterfowl were traditionally harvested. ¹
A7	High diversity of indigenous flora and fauna. High diversity of bird and fish life, including the following species: White Heron (<i>Egretta alba modesta</i>), White-faced Heron (<i>Ardea novaehollandiae novaehollandiae</i>), Royal Spoonbill (<i>Platalea regia</i>), Pied Stilt (<i>Himantopus himantopus</i>), Black Swan (<i>Cygnus atratus</i>), Grey Teal (<i>Anas gracilis</i>), New Zealand shoveller/Kuruwhengi (<i>Anas rhynchosotis variegata</i>), Grey Duck (<i>Anas superciliosa</i>), Arctic Waders, eels and galaxiids. ¹
A8	Regionally significant habitat for waterfowl. ¹
A1 – A3, A9	No relevant information is currently held by the ORC.

Other information:

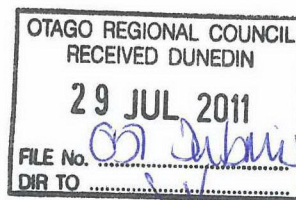
- > Presence of shore cotula (*Leptinella dioica*), rekoreko (*Selliera radicans*), sea primrose (*Samolus repens*) and cutty grass/rautahi (*Carex geminata*).³⁴
- > Most of the lagoon is part of the Hawksbury Wildlife Reserve. An adjacent lagoon which is not included within the wetland's mapped boundary is part of the Coastal Protection Area covered by the Regional Plan: Coast.¹
- > Listed as an Area of Significant Conservation Value in the Dunedin City District Plan. Described as two lagoons fed by channel, dissected by causeways. Natural values include wetland habitat values for native bird and fish species. Described as of regional significance.²⁸
- > 121 plant species have been recorded: 43 local natives and 5 non-local natives, the remained being exotic. Two species are classified as nationally uncommon: Gossamer grass (*Anemanthele lessoniana*), which is 'at risk-declining' and golden sand sedge/Pikao (*Desmoschoenus spiralis*), which is 'at risk-relict'. Other native rushes and sedges recorded include jointed wire rush/oioi (*Leptocarpus similis*), cutty grass/rautahi (*Carex geminata*), knobby clubrush/wīwī (*Ficinia nodosa*), leafless rush (*Juncus distegus*), *Juncus edgariae*, salt marsh ribbonwood/houi (*Plagianthus divaricatus*) and sea primrose/māakoako (*Samolus repens*).⁸³
- > Nationally threatened and uncommon birds recorded include Grey Duck (*Anas superciliosa*), nationally critical; White Heron (*Egretta alba modesta*), nationally

critical; Eastern Falcon (*Falco novaeseelandiae* "eastern"), nationally vulnerable; Variable Oystercatcher (*Haematopus unicolor*), at risk – recovering; Australasian Pied Stilt (*Himantopus himantopus leucocephalus*), at risk – declining; Caspian Tern (*Sterna caspia*), threatened – nationally vulnerable; Black-billed Gull (*Larus bulleri*), threatened – nationally endangered; Red-billed Gull (*Larus novaehollandiae scopulinus*), threatened – nationally vulnerable; Black Shag (*Phalacrocorax carbo novaehollandiae*), at risk – naturally uncommon; Little Shag (*Phalacrocorax melanoleucos brevirostris*), at risk – naturally uncommon; Little Black Shag (*Phalacrocorax sulcirostris*), at risk – naturally uncommon; and Royal Spoonbill (*Platalea regia*), at risk – naturally uncommon.⁸³

- > Freshwater fish species recorded include eels, inaka (*Galaxias maculatus*) and bully (*Gobiomorphus* sp.).⁸³
- > The lagoon also provides important habitat for common waterfowl species such as New Zealand shoveller/Kuruwhengi (*Anas rhynchotis variegata*), Paradise Shelduck (*Tadorna variegata*), Grey Teal (*Anas gracilis*), Black Swan (*Cygnus atratus*) and Mallard (*Anas platyrhynchos*).⁸³



Aerial view of Hawksbury Lagoon (March 2006)



**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: TrustPower Limited ('TrustPower')

Address: Private Bag 12023
TAURANGA

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. TrustPower's Interest in the Otago Region

TrustPower's generation assets consist of 34 small to medium sized generation stations strategically located around New Zealand to ensure power is generated close to where it is consumed. TrustPower has grown to become one of New Zealand's largest electricity retailers, serving just under a quarter of a million customers throughout the country, utilising solely renewable energy generation.

TrustPower is committed to responsible and effective energy generation and to applying industry best practice to these activities. TrustPower acknowledges the importance of the environment, in particularly the aquatic environment, to its continued operations, and has adopted a set of environmental policies which encourage the practical minimisation of any adverse environmental impacts associated with the company's activities. TrustPower is also active in various environmental initiatives within the vicinity of their generation assets.

TrustPower is a significant user of water within the Otago Region, operating a number of hydro-electricity power schemes. TrustPower has also recently been granted resource consent for the construction and operation of the Mahinerangi Wind Farm, which is currently under construction. Within the Otago Region TrustPower currently operates the following power schemes:

Paerau/Patearoa – Existing Power Scheme

The Patearoa/Paerau Gorge Power Scheme is a joint hydroelectric/irrigation scheme located within the Maniototo sub-region of the Taieri Catchment,

utilising water diverted from storage reservoirs along the Taieri River. It is made up of the Paerau Power Station which has an annual output of 47.8GWh and the Patearoa Power Station which has an annual output of 7.5GWh. Both stations were commissioned in 1984 and between them produce annual average output of 62GWh, sufficient to supply electricity to approximately 7,750 typical New Zealand households.

Deep Stream – Existing Hydro Scheme

The Deep Stream Hydro Scheme was commissioned in 2008 to utilise water discharged from the north side of Lake Mahinerangi. The scheme channels water flowing from an existing Deep Stream Diversion, impounds that water in a storage reservoir, and then allows the water to be released through canals containing 2.5 MW generating units to Lake Mahinerangi. The scheme supplies power for the equivalent of 3,100 homes and also provides an emergency water supply for Dunedin City in the event of prolonged drought.

Waipori – Existing Hydro Scheme

The Waipori Hydro Scheme was commissioned in 1907 and generates electricity from the Waipori River. The system begins near the headwaters of the Waipori River, high in the Lammerlaw Range. A web of water races, open channels, diversion tunnels and pipelines feed the scheme. Today, the scheme consists of a large hydroelectric storage lake - Lake Mahinerangi, which feeds four power stations located on the Waipori River. It has a total average annual output of 192GWh, sufficient to supply electricity to approximately 24,000 typical New Zealand households. Please refer to **Appendix A** for a schematic of the Waipori Hydro Scheme.

Aside from its existing operations, TrustPower has future development aspirations within the Otago Region and, as part of these, has proposed the Mahinerangi Wind Farm. The Mahinerangi Wind Farm is to be built on 1723 hectares of farmland located north of Lake Mahinerangi. Lake Mahinerangi feeds the Waipori Hydro Scheme, as described above. A brief summary of the Wind Farm is provided below.

Mahinerangi – Proposed Scheme

The Mahinerangi Wind Farm has been consented by the ORC and Clutha District Council. Stage 1 of its development was completed in April 2011. The resource consents obtained by TrustPower provide for a 200MW wind farm with a maximum of 100 turbines, at a maximum height of 145 metres.

Given the close proximity of the Mahinerangi Wind Farm to the Waipori Hydro Scheme, it is intended that when the wind is blowing TrustPower will be able to conserve water for use when the wind is not blowing. When wind conditions and hydro storage are both abundant, the scheme will provide peak capacity. Stage 1 of the wind farm project alone is expected to provide enough power (100 GWh output) to supply approximately 13,000 Dunedin homes.

TrustPower's existing power schemes within the Otago Region are important strategic and physical resources that warrant protection under Part 2 of the

Resource Management Act 1991 (“RMA”) because of their contribution to the region’s economic, social and cultural wellbeing. The power schemes listed above play a pivotal role in power generation in the region and will continue to do so in future. As such, enhancement of some or all of these schemes may be required within the life of the Water Plan for Otago. It is, therefore, appropriate that the Water Plan for Otago does not unreasonably impede either the operating regime or the future consenting requirements for these key strategic electricity generating assets.

Against this background, TrustPower has a great 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 within the Otago District. To be clear, the proposed Regionally Significant Wetlands of particular interest to TrustPower are shown in **Table 1** below:

Table 1: Proposed Regionally Significant Wetlands of Interest to TrustPower

Wetland	Significance to TrustPower	Status of Wetland
Upper Taieri Wetlands Complex (161)	<p>The upper Taieri Wetlands Complex is located near the Paerau/Patearoa power scheme and is shown on shown on Maps F22-F28.</p> <p>TrustPower operates an existing discharge associated with this scheme into the Upper Taieri Wetlands Complex.</p> <p>TrustPower also operates two flow measuring devices within the proposed regionally significant Upper Taieri Wetlands Complex. Removal of gravel build-up and occasional vegetation clearance is required to maintain these devices.</p>	Existing Significant Wetland to remain. Boundaries to be extended.
Waipori/Waihola Wetland Complex (167)	<p>The Waipori/Waihola Wetland Complex is downstream of the Waipori Scheme and is shown on shown on Maps F48 and F49.</p> <p>Existing discharges from the Waipori Scheme and its operation may affect the proposed regionally significant Waipori / Waihola Wetland Complex.</p>	Existing Significant Wetland to remain. Boundaries to be changed.
Loch Loudon Fen Complex (84)	<p>The Loch Loudon Fen Complex is within the vicinity of Lake Mahinerangi, which is south of the proposed Mahinerangi Wind Farm.</p> <p>The consented operating range for Lake</p>	Existing Additional Wetland, proposed as a Significant Wetland. Boundaries of this wetland are proposed to be

	<p>Mahinerangi, in particular the range for flood management, may impact on the proposed regionally significant Loch Loudon Fen Complex shown on Map F50.</p> <p>In addition, Sheppard's Water Race discharges into a tributary stream of the Loch Loudon Fen Complex. This discharge is likely to affect the water levels of the Loch Loudon Fen Complex.</p>	<p>implemented, rather than the maps just showing a point location.</p>
Loch Luella Fen Complex (85)	<p>The Loch Luella Fen Complex is within the vicinity of Lake Mahinerangi, which is south of the proposed Mahinerangi Wind Farm.</p> <p>The consented operating range for Lake Mahinerangi, in particularly the range for flood management, may impact on the proposed regionally significant Loch Luella Fen Complex shown on Maps F50 and F51.</p>	<p>Existing Significant Wetland to remain. The boundaries are proposed to be changed and expanded significantly.</p>

4. General Submissions to Proposed Plan Change 2:

TrustPower is dissatisfied with the Plan Change 2 process by which wetlands throughout Otago have been classified as "regionally significant" or not significant. TrustPower does not contest the regionally significant wetland values¹ or the quality and amount of ground work that has been undertaken by ORC to classify wetlands throughout Otago, but considers that the method by which individual wetlands were assessed, and the resultant regionally significant values ascribed to Regionally Significant Wetlands, should have been available to stakeholders and the public throughout the consultation process and at least at the time Plan Change 2 was publicly notified. TrustPower considers that this lack of transparency is a significant shortcoming of Plan Change 2 and the non-regulatory inventory and mapping process by which Regionally Significant Wetlands have been determined or expanded.

TrustPower contacted the ORC following Plan Change 2 being publically notified to enquire about when the non-regulatory inventory would be made available. TrustPower subsequently obtained the parts of the draft non-regulatory inventory of regionally significant wetland values relevant to its operations relatively late in the period for making a submission. Nevertheless, TrustPower's comments on the content of the non-regulatory inventory are provided below.

TrustPower understands that the Council's reason for specifically excluding the non-regulatory inventory from the Water Plan is that if the inventory is included

¹ Other than the minor amendments proposed to Policy 10.4.1 in the specific submissions attached.

in the Water Plan a formal Plan Change process would need to be undertaken each time more information becomes available on the wetlands. TrustPower 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.

However, TrustPower considers that the regionally significant wetland values associated with each Regionally Significant Wetland should be contained in Schedule 9 to the Water Plan, rather than in the non-regulatory inventory. This is because the non-regulatory inventory will have no status when it comes to dealing with matters relevant to the Water Plan, which is likely to present an issue in applying the proposed provisions as many of them relate directly to regionally significant wetland values. 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, any changes to the regionally significant wetland values identified for a Regionally Significant Wetland should require a formal Plan Change process.

Whilst TrustPower acknowledges that ecological values, such as those identified in the non-regulatory inventory, are fundamental in determining which wetlands hold regionally significant wetland values, TrustPower is concerned that the existing, and in some cases longstanding, human use influence on particular wetlands has not been incorporated into the non-regulatory inventory or recognised by ORC in preparing Plan Change 2.

At the time of reviewing Draft Plan Change 2, TrustPower 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. TrustPower's intention was that this would ensure that existing activities and human use values would not be unduly compromised without consideration of their benefits. TrustPower's comments in this respect do not appear to have been taken into account by ORC.

Whilst it is acknowledged that certain activities may have adverse effects on wetlands, human use influences on wetlands (such as upstream activities) also have the potential to positively influence local ecology (for example by improving water quality), as well as contributing significantly to the local economy and having positive social effects. Such human use influences, whilst they exist for certain wetlands, do not appear to have been recorded or considered by ORC for any of the Regionally Significant Wetlands listed in the Schedule 9 to the Water Plan and the non-regulatory inventory. TrustPower considers that human use influences on Regionally Significant Wetlands should be identified where they occur, recorded and provided for by Plan Change 2 since they play a significant role in sustaining the life-supporting capacity of certain wetlands. TrustPower considers that Lake Mahinerangi and its surrounding wetlands provide a prime example of human use playing a role in shaping and defining the ecological values present.

TrustPower further considers that the potential for alterations in the human use influences that affect certain wetlands should be recognised and provided for. A change in an existing hydroelectric management regime, for example, may change hydrological conditions in the wetland, but this change will not necessarily have resultant adverse effects on indigenous flora or fauna, ecological functioning or species diversity. Therefore, a change in human use that affects any wetland may well be sustainable. This has not been provided for by Plan Change 2.

In order to resolve the issues identified above relevant to TrustPower's particular interests, TrustPower proposes a Management Zone be established for the Loch Luella and Loch Loudon Fen Complexes, which are scheduled Regionally Significant Wetlands within TrustPower's operating range for Lake Mahinerangi. This Management Zone is described in detail in Section 5 below.

TrustPower has expressed great interest in the wetlands within the vicinity of Lake Mahinerangi from very early in the Plan Change 2 process. This interest stems in particular from its operation of the Waipori Hydro Scheme which was first established in 1907, but also from other schemes within this area as described in Section 3 above.

TrustPower appreciates having had the opportunity to undertake a site visit with the ORC and an expert botanist in 2009 to discuss the wetlands within the vicinity of Lake Mahinerangi. TrustPower was pleased that the wetlands scheduled in the draft of Plan Change 2 in August / September 2010 accounted for some of the issues associated with the wetlands within the vicinity of Lake Mahinerangi that were identified at the time of this site visit. However, TrustPower is disappointed that ORC did not take heed of its later request to meet to discuss providing for TrustPower's hydroelectric power schemes within Plan Change 2². TrustPower considers that further consultation by ORC, as requested by TrustPower, could have resolved many of the issues raised in the current submission prior to Plan Change 2 being publically notified.

TrustPower would welcome the opportunity to meet to discuss with Council staff a more palatable approach, such as the Management Zone concept promoted here, in advance of a Section 42A Report being prepared.

5. Proposed Management Zone for the Waipori Hydro Scheme and the Loch Luella and Loch Loudon Fen Complexes

As proposed by ORC, Plan Change 2 has the potential to unduly compromise the operating regime and future consenting requirements of the Waipori Hydro Scheme, which is a key electricity generating asset for the region. To overcome the lack of recognition of existing activities and human use values in Plan Change 2 thus far, TrustPower proposes that a Management Zone is established for the Waipori Hydro Scheme and the Loch Luella and Loch Loudon Fen Complexes as identified on Maps 50 and 51. The purpose of the

² TrustPower requested this meeting via email at the time its comments were provided on Draft Plan Change 2 on the 20th of September 2010.

Management Zone is to recognise and provide for existing human use influences on the Loch Luella and Loch Loudon Fen Complexes including the potential for such human influences to change over time, whilst still providing these wetlands with the necessary level of protection given their ecological values³.

TrustPower considers that for sustainable management (as defined in Section 5(2) of the RMA) to be given effect by Plan Change 2, it is essential that the Waipori Hydro Scheme is not unduly compromised and that its benefits are recognised, as provided for by the proposed Management Zone. This is because the Waipori Hydro Scheme is an important and strategic physical resource which warrants protection under Part 2 of the RMA because of its contribution to the region's economic, social and cultural wellbeing.

TrustPower also considers that for Plan Change 2 to be consistent with, and for the Water Plan to give effect to, the National Policy Statement for Renewable Energy Generation ("NPSREG"), amendments and/or addendums are required to the Plan Change. In particular, regard needs to be had to the Waipori Hydro Scheme, which is an existing renewable electricity generation activity that warrants protection under Policy B of the NPSREG.

Therefore, having regard to the ecological values held by the Loch Luella and Loch Loudon Fen Complexes and the activities and values associated with the Waipori Hydro Scheme, TrustPower proposes that the Management Zone contained in **Appendix B** is conjointly further developed by Otago Regional Council and TrustPower and incorporated into the Water Plan.

The primary purpose of the objectives and policies proposed for the Management Zone is to provide regional level protection for the Waipori Hydro Scheme and Loch Loudon and Loch Luella Fen Complexes, and recognise and provide for their interconnection. It is intended that these objectives and policies would apply to any relevant activity proposed under the Water Plan.

The primary purpose of the rule proposed is to ensure existing consented activities associated with the regionally and nationally significant Waipori Hydro Scheme are not unduly compromised by Plan Change 2. It is envisaged that human use values will be considered under this rule, whilst still providing the Loch Loudon and Loch Luella Fen Complexes with the necessary level of protection. It is intended that this rule may only apply to the renewal of existing consents associated with the Waipori Hydro Scheme and new activities associated with the Waipori Hydro Scheme and any other activities that have

³ Loch Loudon Fen Complex:
 • high diversity of indigenous flora and fauna.

Loch Luella Fen Complex:

- Habitat of nationally or internationally rare or threatened species;
- High degree of naturalness;
- Scarce in Otago in terms of its ecological or physical character; and
- High diversity of indigenous flora and fauna.

the potential to affect the Loch Loudon and Loch Luella Fen Complexes would be encompassed by the Water Plan rules that have been proposed by the ORC under Plan Change 2.

6. **Specific Submissions to Proposed Plan Change 2 are attached as Appendix C.**

7. **In summary TrustPower:**

- a) Generally opposes the Plan Change and has set out the specific relief sought under the submissions outlined in **Appendixes B and C**.
- b) Is concerned that actual and potential effects on its existing infrastructure and operations would occur from the Plan Change if the following amendments and addendums are not made:
 - i. The Plan Change should be amended to give effect to the NPSREG.
 - ii. A Management Zone should be established for the Waipori Hydro Scheme and the Loch Luella and Loch Loudon Fen Complexes which recognises and provides for the longstanding human use influences on these wetlands and the potential for such influences to change.
 - iii. Regionally significant values ascribed to each Regionally Significant Wetland should be included in Schedule 9 to the Water Plan.
 - iv. Only wetlands above 800m which hold regionally significant values should be classified as Regionally Significant Wetlands (not all wetlands above 800m).
 - v. Formal guidance on what an assessment of effects on a wetland above 800m should entail should be included in the Water Plan.
 - vi. 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.
 - vii. 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. If this primacy is intended to give effect to Policy 5 of the proposed National Policy Statement on Indigenous Biodiversity ("NPSIB"), TrustPower has opposed this and the NPSIB should be recognised as being subject to change.

- viii. The proposed rules should guide financial contributions only where they are necessary, such as when adverse effects cannot be avoided, remedied or mitigated to ensure they have tangible benefits.
- ix. The proposed non-complying rules for the taking and use of surface and ground water from Regionally Significant Wetlands should be deleted and takes and uses that are not covered by other specified rules should have discretionary status.
- x. Point (ii) should be deleted from Rule 12.3.1A.1 as it is subjective and does not provide certainty to plan users.

8. TrustPower seeks the following decision from the Otago Regional Council (applicable to the above mentioned Plan Change in its entirety):

- a) That the amendments outlined in **Section 7** and **Appendix C** are accepted;
- b) That the addendums outlined in **Section 5** and **Appendix B** are jointly developed by TrustPower and Otago Regional Council staff and incorporated into Plan Change 2;
- c) Such further or other relief as is appropriate or desirable in order to take account of the concerns expressed in this submission; and
- d) That, in the event that the amendments set out above are not implemented, Plan Change 2 be withdrawn.

9. TrustPower wishes to be heard in support of its submission.

10. If others make a similar submission, TrustPower would be prepared to consider presenting a joint case with them at any hearing.

Signature:



TrustPower Limited
By its authorised agent Laura Marra, for and on behalf of
TrustPower Limited

Date:

29 July 2011

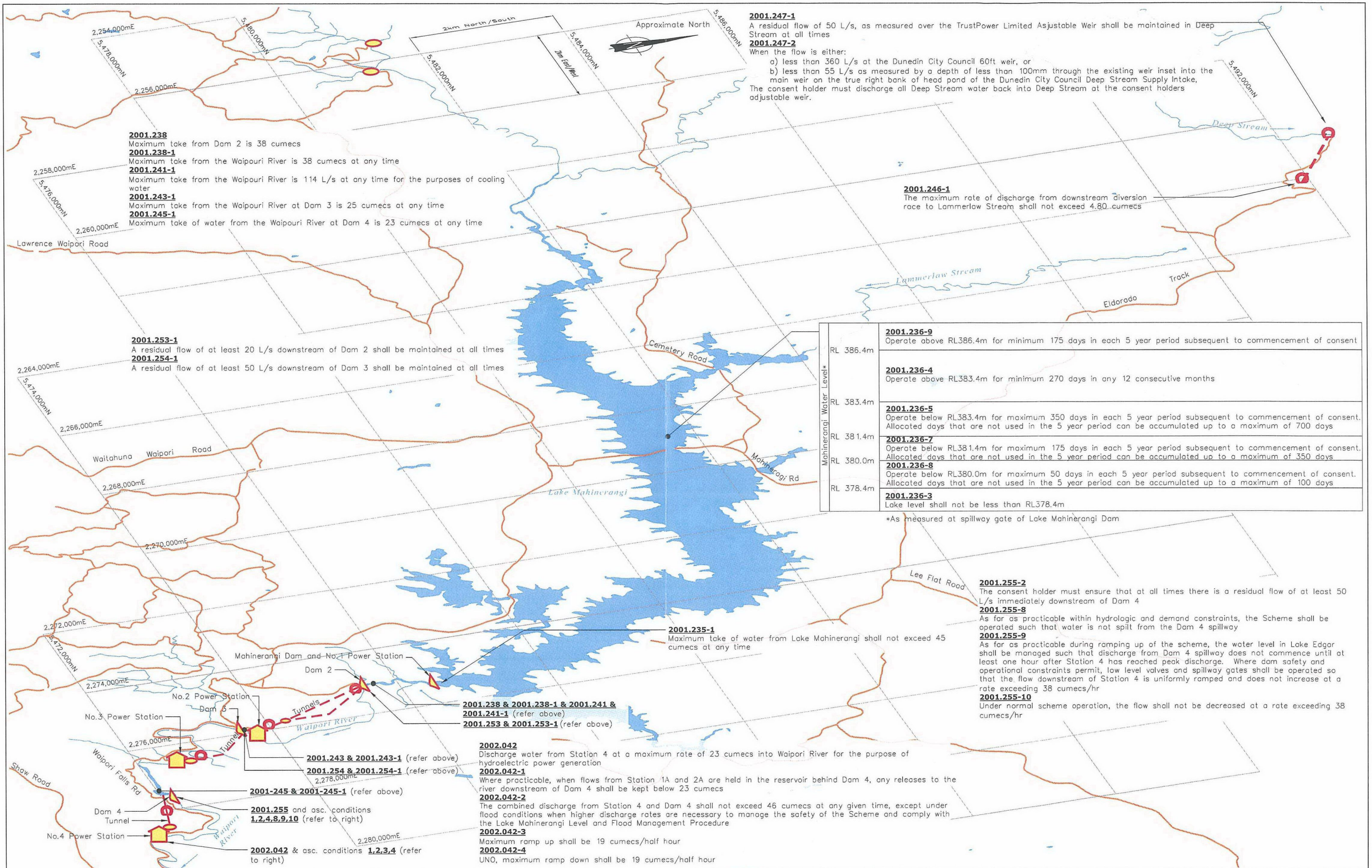
Address for service: TrustPower Limited
Private Bag 12023
Tauranga
Attn: Laura Marra

Telephone: (07) 574 4888 ext 4304

Facsimile: (07) 574 4877

APPENDIX A

Waipori Schematic



2001.247-1
A residual flow of 50 L/s, as measured over the TrustPower Limited Adjustable Weir shall be maintained in Deep Stream at all times

2001.247-2
When the flow is either:
a) less than 360 L/s at the Dunedin City Council 60ft weir, or
b) less than 55 L/s as measured by a depth of less than 100mm through the existing weir inset into the main weir on the true right bank of head pond of the Dunedin City Council Deep Stream Supply Intake, The consent holder must discharge all Deep Stream water back into Deep Stream at the consent holders adjustable weir.

2001.238
Maximum take from Dam 2 is 38 cumecs

2001.238-1
Maximum take from the Waipouri River is 38 cumecs at any time

2001.241-1
Maximum take from the Waipouri River is 114 L/s at any time for the purposes of cooling water

2001.243-1
Maximum take from the Waipouri River at Dam 3 is 25 cumecs at any time

2001.245-1
Maximum take of water from the Waipouri River at Dam 4 is 23 cumecs at any time

2001.246-1
The maximum rate of discharge from downstream diversion race to Lammerlaw Stream shall not exceed 4.80 cumecs

2001.253-1
A residual flow of at least 20 L/s downstream of Dam 2 shall be maintained at all times

2001.254-1
A residual flow of at least 50 L/s downstream of Dam 3 shall be maintained at all times

RL 386.4m	2001.236-9 Operate above RL386.4m for minimum 175 days in each 5 year period subsequent to commencement of consent
RL 383.4m	2001.236-4 Operate above RL383.4m for minimum 270 days in any 12 consecutive months
RL 381.4m	2001.236-5 Operate below RL383.4m for maximum 350 days in each 5 year period subsequent to commencement of consent. Allocated days that are not used in the 5 year period can be accumulated up to a maximum of 700 days
RL 380.0m	2001.236-7 Operate below RL381.4m for maximum 175 days in each 5 year period subsequent to commencement of consent. Allocated days that are not used in the 5 year period can be accumulated up to a maximum of 350 days
RL 378.4m	2001.236-8 Operate below RL380.0m for maximum 50 days in each 5 year period subsequent to commencement of consent. Allocated days that are not used in the 5 year period can be accumulated up to a maximum of 100 days
	2001.236-3 Lake level shall not be less than RL378.4m

*As measured at spillway gate of Lake Mahinerangi Dam

2001.255-2
The consent holder must ensure that at all times there is a residual flow of at least 50 L/s immediately downstream of Dam 4

2001.255-8
As far as practicable within hydrologic and demand constraints, the Scheme shall be operated such that water is not spilled from the Dam 4 spillway

2001.255-9
As far as practicable during ramping up of the scheme, the water level in Lake Edgor shall be managed such that discharge from Dam 4 spillway does not commence until at least one hour after Station 4 has reached peak discharge. Where dam safety and operational constraints permit, low level valves and spillway gates shall be operated so that the flow downstream of Station 4 is uniformly ramped and does not increase at a rate exceeding 38 cumecs/hr

2001.255-10
Under normal scheme operation, the flow shall not be decreased at a rate exceeding 38 cumecs/hr

2001.235-1
Maximum take of water from Lake Mahinerangi shall not exceed 45 cumecs at any time

2001.238 & 2001.238-1 & 2001.241 & 2001.241-1 (refer above)

2001.253 & 2001.253-1 (refer above)

2001.243 & 2001.243-1 (refer above)

2001.254 & 2001.254-1 (refer above)

2001.245 & 2001.245-1 (refer above)

2001.255 and asc. conditions **1,2,4,8,9,10** (refer to right)

2002.042 & asc. conditions **1,2,3,4** (refer to right)

2002.042
Discharge water from Station 4 at a maximum rate of 23 cumecs into Waipori River for the purpose of hydroelectric power generation

2002.042-1
Where practicable, when flows from Station 1A and 2A are held in the reservoir behind Dam 4, any releases to the river downstream of Dam 4 shall be kept below 23 cumecs

2002.042-2
The combined discharge from Station 4 and Dam 4 shall not exceed 46 cumecs at any given time, except under flood conditions when higher discharge rates are necessary to manage the safety of the Scheme and comply with the Lake Mahinerangi Level and Flood Management Procedure

2002.042-3
Maximum ramp up shall be 19 cumecs/half hour

2002.042-4
UNO, maximum ramp down shall be 19 cumecs/half hour

Grid in terms of New Zealand Map Grid (NZMG) and Geodetic Datum NZDG49. Crown Copyright reserved.

LEGEND

- Road
- Stream or river
- Lake



Tonkin & Taylor
Environmental & Engineering Consultants

Hamilton
 Auckland
 Christchurch
 Nelson
 Wellington
 Whangarei

DRAWN	CRRA Jan.07
DRAFTING CHECKED	
APPROVED	
CADFILE:	\\24061-Waipori-Schematic.dwg
SCALES (AT A3 SIZE)	
NTS	
PROJECT No.	24061

TrustPower Ltd
Resource Consent Compliance Key Figures
Waipori Hydro-electric Power Scheme
Schematic Layout

FIG. No. Figure 8

REV. 0

APPENDIX B

Management Zone

MANAGEMENT ZONE FOR THE WAIPORI HYDRO SCHEME AND THE LOCH LOUDON AND LOCH LUELLE FEN COMPLEXES

Overview

This section of the Water Plan applies to activities associated with the use and development of the Waipori Hydro Scheme and to activities that have the potential to adversely affect the Loch Loudon or Loch Luella Fen Complexes identified on Maps 50 and 51.

The Loch Loudon and Loch Luella Fen Complexes are situated south of Lake Mahinerangi in the Clutha District at an altitude of 400-500m. The Loch Loudon Fen Complex is situated approximately 21km northeast of Lawrence and the Loch Luella Fen Complex is further east of this.

The Loch Loudon Fen Complex is classified as "Fen" wetland and the Loch Luella Fen Complex is classified as "Fen and Swamp" wetland. A complex of wetland gullies drain into the Loch Loudon Fen Complex and the wetland has been identified as having a high diversity of indigenous flora and fauna.

Red tussock wetland swamps and ponds on the floodplain of the upper Pioneer Stream drain into the Loch Luella Fen Complex south of the western arm of Lake Mahinerangi. The Loch Luella Fen Complex has been identified as having a number of regionally significant values, including: habitat of nationally or internationally rare or threatened species; a high degree of naturalness; being scarce in Otago in terms of its ecological or physical character; and having a high diversity of indigenous flora and fauna. The regionally significant ecological values held by the Loch Loudon and Loch Luella Fen Complexes warrant protection under the Water Plan.

However, unlike most other Regionally Significant Wetlands in the Otago Region, the Loch Loudon and Loch Luella Fen Complexes are significantly influenced by an longstanding human use activity, being the Waipori Hydro Scheme. The Waipori Hydro Scheme was commissioned in 1907 and generates electricity from the Waipori River. The scheme consists of a large hydroelectric storage lake - Lake Mahinerangi, which feeds four power stations located on the Waipori River. It has a total average annual output of 192GWh, sufficient to supply electricity to approximately 24,000 typical New Zealand households.

The Waipori Hydro Scheme warrants protection for its contribution to national, regional and local electricity generation output. At the national level, protection is warranted under Section 7(j) of the RMA and Policy B of the National Policy Statement for Renewable Energy Generation, which acknowledges the practical implications of achieving New Zealand's target for electricity generation from renewable resources (the target being that 90 per cent of electricity generated in New Zealand should be derived from renewable energy sources by 2025). Under this Policy decision-makers are required to have particular regard to the following matters:

- *Maintenance of the generation output of existing renewable electricity generation activities can require protection of the assets, operational capacity and continued availability of the renewable energy resource; and*

- *Even minor reductions in the generation output of existing renewable electricity generation activities can cumulatively have significant adverse effects on national, regional and local renewable electricity generation output.*

The Waipori Hydro Scheme is recognised as an important strategic and physical resource which contributes to the Otago Region's economic, social and cultural wellbeing, and the Schemes established infrastructure is regionally significant.

Changes in the management of the Waipori Hydro Scheme have the potential to affect the Loch Loudon and Loch Luella Fen Complexes including the ecological values found there because of their close proximity and hydrological and ecological connectivity. The purpose of this Management Zone for the Loch Loudon and Loch Luella Fen Complexes is to provide for both the ecological and human use values set out above so as to sustainably manage the wetland resources. The provisions set out below for this Management Zone recognise that in this case ecological and human use values are interconnected and that the ecological values that exist for these wetlands and those social, economic, cultural and health and safety values that exist for the Waipori Hydro Scheme both warrant regional level protection.

Objectives

1. The Loch Loudon and Loch Luella Fen Complexes are maintained or enhanced for present and future generations; and
2. The Waipori Hydro Scheme is maintained or enhanced for present and future generations.

Policies

1. The Loch Loudon Fen Complex and Loch Luella Fen Complex are Regionally Significant Wetlands for which the following regionally significant values have been identified:

Loch Loudon Fen Complex

- High diversity of indigenous flora and fauna.

Loch Luella Fen Complex

- Habitat for nationally or internationally rare or threatened species or communities; and
- Wetland with a high degree of naturalness; and
- Wetland scarce in Otago in terms of its ecological or physical character; and
- High diversity of indigenous flora and fauna.

2. The management of the Waipori Hydro Scheme enables its generation output to be retained or increased to enable people and communities at local, regional and national levels to provide for their social, economic and cultural wellbeing and health and safety, whilst adverse effects on the regionally significant wetland values identified for the Loch Loudon Fen Complex and Loch Luella Fen Complex in Policy 1 are avoided, remedied or mitigated.

Rules

1. It is a **restricted discretionary activity** to renew existing resource consents for the following activities associated with the Waipori Hydro Scheme:
 - a) Taking and use of surface water;
 - b) Taking and use of groundwater;
 - c) The damming or diversion of water;
 - d) Discharges;
 - e) The use of a structure;
 - f) The erection or placement of a structure;
 - g) The extension, alteration, replacement or reconstruction of a structure;
 - h) Alteration of the bed of a lake or river or of a Regionally Significant Wetland;
 - i) The introduction or planting of vegetation; and
 - j) The removal of vegetation.

In considering any resource consent to renew an existing consent in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:

XXX

TrustPower wishes to meet with staff of the Otago Regional Council to discuss the Management Zone proposed above and to further develop the rules. TrustPower envisages that the exercise of Council's discretion under Rule 1 proposed above will include the consideration of human use values associated with the Waipori Hydro Scheme, whilst providing the Loch Loudon and Loch Luella Fen Complexes with the necessary level of protection.

APPENDIX C

Specific Submissions

Provision	Proposed Amendments (note that these do not include any consequential amendments that also should be made)	Explanation
Chapter 10 Wetlands		
<p>10.3 Objective 10.3.1 Otago's wetlands and their values and services will be maintained or enhanced for present and future generations.</p>	<p>10.3.1 Otago's <u>regionally significant</u> wetlands and their values and services will be maintained or enhanced for present and future generations.</p>	<p>TrustPower partially supports this objective. TrustPower considers that this objective should specifically refer to regionally significant wetlands to be better aligned with the other provisions proposed in Plan Change 2 ("PC2"), and avoid confusion to plan users given the broad definition of 'wetland' in the Water Plan.</p>
<p>10.4 Policies 10.4.1 The regionally significant wetland values of Otago's wetlands are: A1 Habitat for nationally or internationally rare or threatened species or communities; A2 Critical habitat for the life cycles of indigenous fauna which are dependent on wetlands; A3 High diversity of habitat types; A4 Wetland with a high degree of naturalness; A5 Wetland scarce in Otago in terms of its ecological or physical character; A6 Wetland which is highly valued by Kai Tahu for mahika kai or other waahi taoka; A7 High diversity of indigenous flora and fauna; A8 Regionally significant habitat for waterfowl; and A9 Significant hydrological values including maintaining water quality or low flows, or reducing flood flows.</p>	<p>10.4 Policies 10.4.1 The regionally significant wetland values of Otago's wetlands are <u>include one or more of the following</u>: A1 Habitat for nationally or internationally rare or threatened species or communities; A2 Critical habitat for the life cycles of indigenous fauna which are dependent on wetlands; A3 High diversity of habitat types; A4 Wetland with a high degree of naturalness; A5 Wetland scarce in Otago in terms of its ecological or physical character; A6 Wetland which is highly valued by Kai Tahu for mahika kai or other waahi taoka; A7 High diversity of indigenous flora and fauna; A8 Regionally significant habitat for <u>indigenous</u> waterfowl; and A9 Significant hydrological values including maintaining water quality or low flows, or reducing flood flows.</p>	<p>TrustPower considers that the first part of this Policy should be amended to indicate that that only one regionally significant wetland value needs to be triggered for a wetland to be classified as a Regionally Significant Wetland. This would provide greater clarity to plan users. As the values are also not mutually exclusive and wetlands may be significant under any one or more than one of these values, Schedule 9 should clearly identify the values attributed to each wetland.</p> <p>TrustPower generally supports the regionally significant wetland values identified in this Policy, with the exception that A8 should apply to indigenous waterfowl. Protecting habitats of all waterfowl is a much greater threshold than envisaged by Clause 6(c) of the Resource Management Act 1991 ('Act'), and Policy A8 should be amended to better reflect Clause 6(c) and set a practical threshold test. The non-regulatory inventory should also be amended to reflect this change.</p> <p>Although TrustPower generally supports the regionally significant values contained in this Policy, TrustPower is concerned that activities and human use values have not been provided for by PC2, when they obviously influence certain wetlands. In order to give the activities and human use values of primary concern to TrustPower recognition and protection, TrustPower proposes a Management Zone for the Waipori Hydro Scheme and Loch Loudon and Loch Luella Fen Complexes. This Management Zone is described in TrustPower's general submissions and set out in Appendix B.</p>
<p>10.4.1A A Regionally Significant Wetland is: (a) A wetland identified in Schedule 9 (that is not a wetland management area); or (b) A wetland physically within a wetland management area listed in Schedule 9; or (c) A wetland higher than 800 metres above sea level.</p>	<p>10.4.1A A Regionally Significant Wetland is: (a) A wetland identified in Schedule 9 (that is not a wetland management area); or (b) A wetland physically within a wetland management area listed in Schedule 9; or (c) A wetland higher than 800 metres above sea level <u>with one or more regionally significant wetland values</u>.</p>	<p>TrustPower opposes this Policy.</p> <p>All wetlands above 800m will not necessarily be associated with one or more of the regionally significant values identified in Policy 10.4.1, especially given the broad scope of the wetland definition in the glossary to the Water Plan. Therefore, classifying all wetlands above 800m as 'regionally significant' and applying associated provisions to all wetlands above 800m is unjustified. TrustPower considers that the regionally significant provisions of the Water Plan should only apply to wetlands above 800m when the wetland(s) contain one or more of the regionally significant wetland values identified in Policy 10.4.1.</p> <p>TrustPower supports the inclusion of wetlands above 800m which have been, or are able to be, assessed as Regionally Significant Wetlands and mapped in Schedule 9. This would be beneficial to persons using the plan and intending to undertake activities in, on, under or over land or water</p>

		<p>above 800m.</p> <p>TrustPower considers that the reference to "wetland management area" in this Policy is confusing to plan users as no definition of "wetland management area" is provided in the Water Plan. The intention of separating wetlands identified in Schedule 9 that are not wetland management areas from those that are for the purpose of this Policy is not clear. This issue needs to be resolved.</p>
<p>10.4.1B Schedule 9 lists those Regionally Significant Wetlands that are mapped in Maps F1-F68 and contain one or more regionally significant wetland values.</p>	<p>10.4.1B Schedule 9 lists those Regionally Significant Wetlands that are mapped in Maps F1-F68 and contain one or more regionally significant wetland values and their regionally significant wetland values as per Policy 10.4.1.</p>	<p>TrustPower partially opposes this Policy as it currently implies that values information will not be listed in the Water Plan.</p> <p>TrustPower considers that it is appropriate to include the general information on Significant Wetlands in a non-regulatory inventory as proposed by PC2, but considers that the values should be listed in the Water Plan for clarity and ease of use.</p> <p>It is important for the values information established for each Significant Wetland be included in the Water Plan because this information is required to be assessed under the proposed provisions. It would be exceedingly difficult for applicants' using the plan to assess activities with the potential to affect a Schedule 9 wetland or wetland above 800m against the Water Plan's provisions without the ecological and other values associated with the wetland concerned being readily available. Further, a non-regulatory inventory would have no status when it comes to dealing with matters relating to the Water Plan, which is likely to be problematic given the Water Plan provisions are currently dependent on it.</p>
<p>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.</p>	<p>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.</p> <p><u>10.4.2 Adverse effects on Regionally Significant Wetlands and their regionally significant values identified in Schedule 9 should be avoided, remedied or mitigated.</u></p>	<p>TrustPower opposes this Policy. TrustPower 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'.</p> <p>The primacy that has been given to 'avoid' in this Policy most likely stems from Policy 5 of the proposed National Policy Statement on Indigenous Biodiversity ("proposed NPSIB"). TrustPower submitted on Policy 5 of the proposed NPSIB. TrustPower submitted that Section 5 of the RMA does not establish a hierarchy between avoid, remedy or mitigate. Case law¹ has established that section 5(2)(c) of the RMA is to be "read conjunctively with equal importance, even if they appear to follow a continuum." 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 of the options must be made by decision makers (and initially by resource consent applicants) which allows a comparison of conflicting considerations and the scale or degree of them. This Policy should reflect this.</p>
<p>10.4.2A Where the avoidance, remedy or mitigation of adverse effects is not possible, financial contributions may be required to:</p> <p>(a) Improve, create or reinstate Regionally Significant Wetlands or regionally significant wetland values where those have been</p>		<p>TrustPower generally supports the intent of this Policy in terms of offsetting adverse environmental effects. However, it would be helpful to plan users if more specific guidelines were included as to how a financial contribution of the amount determined by section 17.3 may be constructively applied.</p>

¹ *Winstone Aggregates Ltd v Auckland Regional Council [EC] A49/2002*

<p>degraded; and</p> <p>(b) Create or reinstate Regionally Significant Wetlands or regionally significant wetland values where those have been lost.</p> <p>The method of determining the contribution amount is set out in section 17.3.</p>		
<p>10.4.6 To promote the conservation, creation and reinstatement of wetland areas and enhancement of wetland values by:</p> <p>(a) Educating Otago's people and communities about land use activities that may result in the loss of wetlands and their values;</p> <p>(b) Initiating or supporting investigations and monitoring of wetlands and their values;</p> <p>(c) Supporting voluntary community and landholder programmes;</p> <p>(d) Initiating or undertaking works in consultation with local communities or</p> <p>(e) Providing information on wetlands and their values.</p>	<p>10.4.6 To promote the <u>maintenance and</u> conservation, creation and reinstatement of wetland areas and enhancement of wetland values by:</p> <p>(a) Educating Otago's people and communities about land use activities that may result in the loss of wetlands and their values;</p> <p>(b) Initiating or supporting investigations and monitoring of wetlands and their values;</p> <p>(c) Supporting voluntary community and landholder programmes;</p> <p>(d) <u>Supporting the reinstatement of wetlands that have been drained or the creation of new wetlands where appropriate.</u></p> <p>(de) Initiating or undertaking works in consultation with local communities or</p> <p>(ef) Providing <u>general</u> information on wetlands <u>in a non-regulatory inventory and identifying Regionally Significant Wetland's their-values in Schedule 9 to the Water Plan.</u></p> <p>(g) <u>Providing information about wetlands in Otago in general, including those that are not regarded as Regionally Significant Wetlands where such information exists.</u></p>	<p>TrustPower partially opposes this Policy.</p> <p>TrustPower opposes the reference to promoting the "creation and reinstatement" of wetland areas in the first part of this Policy. From an ecological perspective, the creation of wetlands is of negligible value in most cases. Promoting the maintenance and conservation of existing wetlands is considered to be an improved approach for sustainably managing wetland resources. The reinstatement of wetlands and creation of new wetlands should still be supported where appropriate as provided for by proposed bullet point (d).</p> <p>In relation to (e) (now (f)), as previously stated, TrustPower considers that information on Regionally Significant Wetland's values should be contained in the Water Plan, not provided by non-regulatory means.</p> <p>Bullet point (g) is proposed because TrustPower considers that any information available on wetlands in Otago should be provided, as this may lead to their maintenance and conservation.</p>
<p>Chapter 12 Rules: Water Take, Use and Management</p>		
<p>Permitted activity rules 12.1.2.4, 12.1.2.5, 12.1.2.6, 12.2.2.5, 12.2.2.6, 12.3.2.1, 12.3.2.2, 12.3.2.3 relating to water takes and damming or diversion of water are all proposed to contain the following standard:</p> <p>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.</p>	<p>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.</p>	<p>TrustPower opposes the changes proposed to these permitted activity rules, with the exception of the reference to "Regionally Significant Wetlands". TrustPower considers that the proposed permitted activity condition that provides for "no change to the water level or hydrological function, or no damage to the flora, fauna or its habitat" does not meet the requirements for a permitted activity standard as it does not enable compliance to be objectively assessed. For example, allowing for normal variation it would be exceedingly difficult to demonstrate in practical terms that a particular water take, or a damming or diversion of water, would result in no change to water level, hydrological function and no damage to flora, fauna or its habitat. This results in considerable uncertainty as to the application of this standard.</p> <p>Rules 12.1.2.4, 12.1.2.5, 12.2.2.5 and 12.2.2.6 may include an alternative standard that provides that water is not taken from any Regionally Significant Wetland.</p> <p>In the case of Rules 12.1.2.5 and 12.2.2.6, it may also be appropriate to include a maximum allocation value to control takes that may affect the water level of any particular Regionally Significant Wetland.</p>
<p>12.1.1A Non-complying activities: Resource consent required</p> <p>12.1.1A.1 Unless covered by Rules 12.1.1.1, 12.1.1.2*, 12.1.2.1 and 12.1.2.3** the taking and use of surface water from any Regionally Significant Wetland is a non-complying activity.</p> <p>* 12.1.1.1 and 12.1.1.2 are Prohibited Activity Rules.</p>	<p>12.1.1A.1 Unless covered by Rules 12.1.1.1, 12.1.1.2, 12.1.2.1 and 12.1.2.3 the taking and use of surface water from any Regionally Significant Wetland is a non-complying activity.</p>	<p>TrustPower opposes these Rules and submits that they should be deleted. A significant area of land and water is proposed to be classified as Regionally Significant Wetland, as shown on the Proposed Regionally Significant Wetlands Maps. As such, minor takes and uses may be required from these areas for various purposes such as for the maintenance and construction of structures. Some taking and use may be required for regionally significant</p>

<p>** 12.1.2.1 and 12.1.2.3 permit the taking of surface water for an individual's reasonable domestic drinking needs or animal's drinking needs and the taking of surface water from any artificial lake.</p>		<p>infrastructure. In TrustPower's view, minor takes from Regionally Significant Wetlands that do not generate minor or greater adverse effects should not have non-complying status as currently proposed, and activities associated with the use and development of regionally significant infrastructure should be provided for.</p>
<p>12.2.1A Non-complying activities: Resource consent required 12.2.1A.1 Unless covered by Rules 12.2.1.1, 12.2.1.2*, 12.2.2.1 and 12.2.2.3**, the taking of groundwater from any Regionally Significant Wetland is a <i>non-complying</i> activity.</p> <p>* 12.2.1.1 is a Prohibited Activity Rule, but there does not appear to be any Rule 12.2.1.2 listed in the Water Plan.</p> <p>** 12.2.2.1 and 12.2.2.3 permit the taking of surface water for an individual's reasonable domestic drinking needs or animal's drinking needs and the taking of groundwater for down-hole pump testing.</p>	<p>12.2.1A.1 Unless covered by Rules 12.2.1.1, 12.2.1.2, 12.2.2.1 and 12.2.2.3, the taking of groundwater from any Regionally Significant Wetland is a <i>non-complying</i> activity.</p>	<p>Rules 12.1.5.1 and 12.2.4.1 already provide for the taking and use of surface and ground water to default to discretionary status. TrustPower considers that these Rules should also apply to the taking and use of water from Regionally Significant Wetlands.</p>
<p>12.3.1A Non-complying activities: Resource consent required 12.3.1A.1 Unless covered by Rules 12.3.1.1 to 12.3.1.4* and 12.3.3.1(i)**:</p> <p>(i) The diversion of water from or within any Regionally Significant Wetland, or</p> <p>(ii) The damming or diversion of water that affects the water level of any Regionally Significant Wetland,</p> <p>Is a <i>non-complying</i> activity.</p> <p>*12.3.1.1 to 12.3.1.4 are Prohibited Activity Rules **12.3.3.1(i) relates to Welcome Creek</p>	<p>12.3.1A Non-complying activities: Resource consent required 12.3.1A.1 Unless covered by Rules 12.3.1.1 to 12.3.1.4, and 12.3.3.1(i) or 12.3.2.0:</p> <p>(i) The diversion of water from or within any Regionally Significant Wetland; or</p> <p>(ii) The damming or diversion of water that affects the water level of any Regionally Significant Wetland;</p> <p>Is a <i>non-complying</i> activity.</p>	<p>TrustPower opposes (ii) of this Rule on the basis that determining whether a damming or diversion will affect the water level of any Regionally Significant Wetland is subjective and does not provide certainty to plan users. TrustPower submits that a comprehensive assessment in terms of water allocation for a particular water body should be undertaken to determine whether the water level of any Regionally Significant Wetland is adversely affected, rather than a blanket rule that provides for no effects on water level.</p>
<p>12.2 Discharges from dams and reservoirs [Unchanged]</p>		<p>TrustPower supports the retention of the same wordings for these Rules.</p>
<p>12.3 Other discharges [Unchanged]</p>		
<p>13 Rules: Land Use on Lake or River Beds or Regionally Significant Wetlands</p>		
<p>13.3.2 Restricted discretionary activities: Resource consent required 13.3.2.1 Except as provided for by Rules 13.3.1.1 and 13.3.1.2, the extension, alteration, replacement or reconstruction of any structure, fixed in, on, under or over the bed of any lake or river, is a <i>restricted discretionary</i> activity.</p> <p>In considering any resource consent for the extension, alteration, replacement or reconstruction of any structure in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:</p> <p>(a) Any adverse effects of the activity on:</p> <p>(i) Any natural and human use value identified in Schedule 1 for any affected water body;</p> <p>(ii) The natural character of any affected water body</p> <p>(iii) Any amenity value supported by any affected water body; and</p> <p>(iv) Any heritage value associated with any affected water body; and</p> <p>(b) Flow and sediment processes; and</p> <p>(c) Any adverse effect on a defence against water; and</p> <p>(d) Any adverse effect on existing public access; and</p> <p>(e) The method of construction; and</p> <p>(f) The duration of the resource consent; and</p> <p>(g) The information and monitoring requirements; and</p> <p>(h) Any existing lawful activity associated with any affected waterbody; and</p> <p>(i) Any insurance or other appropriate means of remedying the effects of</p>	<p>13.3.2 Restricted discretionary activities: Resource consent required 13.3.2.1 Except as provided for by Rules 13.3.1.1 and 13.3.1.2, the extension, alteration, replacement or reconstruction of any structure, fixed in, on, under or over the bed of any lake or river, is a <i>restricted discretionary</i> activity.</p> <p>In considering any resource consent for the extension, alteration, replacement or reconstruction of any structure in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:</p> <p>(a) Any adverse effects of the activity on:</p> <p>...</p> <p>(k) A financial contribution if the structure is a dam, or an activity that adversely affects any Type B wetland value <u>Whether, and at what scale a financial contribution is necessary, such as when adverse effects on regionally significant wetlands cannot be avoided, remedied or mitigated;</u> and</p>	<p>TrustPower partially supports this Rule. TrustPower submits that consideration should be given to whether a financial contribution is necessary, and at what scale it would be required to ensure any financial contribution is constructive.</p>

<p>failure; and</p> <p>(j) Any bond; and</p> <p>(k) A financial contribution if the structure is a dam, or an activity that adversely affects any Type B wetland value; and</p> <p>(l) The review of conditions of the resource consent.</p> <p>Applications may be considered without notification under Section 93 and without service under Section 94(1) of the Resource Management Act on persons who, in the opinion of the consent authority, may be adversely affected by the activity.</p>		
<p>13.3.2.2 Except as provided for by Rules 13.3.1.1 and 13.3.1.2, the extension, alteration, replacement or reconstruction of any structure, fixed in, on, under or over the bed of any lake or river, or any Regionally Significant Wetland, is a restricted discretionary activity.</p> <p>In considering any resource consent for the extension, alteration, replacement or reconstruction of any structure in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:</p> <p>...</p> <p>(k) A financial contribution if the structure is a dam, or for regionally significant wetland values or Regionally Significant Wetlands that are adversely affected; and</p>	<p>13.3.2.2 Except as provided for by Rules 13.3.1.1 and 13.3.1.2, the extension, alteration, replacement or reconstruction of any structure, fixed in, on, under or over the bed of any lake or river, or any Regionally Significant Wetland, is a restricted discretionary activity.</p> <p>In considering any resource consent for the extension, alteration, replacement or reconstruction of any structure in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:</p> <p>...</p> <p>(k) A financial contribution if the structure is a dam, or for regionally significant wetland values or Regionally Significant Wetlands that are adversely affected. <u>Whether, and at what scale a financial contribution is necessary, such as when adverse effects on Regionally Significant Wetlands cannot be avoided, remedied or mitigated;</u> and</p>	<p>TrustPower partially supports this Rule. TrustPower submits that consideration should be given to whether a financial contribution is necessary, and at what scale it would be required to ensure any financial contribution is constructive.</p>
<p>13.4 Demolition or removal of a structure</p> <p>13.4.1.1 The demolition or removal of any structure or any part of a structure that is fixed in, on, under or over the bed of any lake or river, or any Regionally Significant Wetland, is a permitted activity providing:</p> <p>...</p> <p>(f) The demolition or removal of the structure does not cause any erosion; and</p> <p>(g) The site is left tidy following the demolition or removal; and</p> <p>(h) In the case of any dam structure, the dam is no more than 3 metres high, and the volume of water stored by the dam is no more than 20,000 cubic metres; and</p> <p>(i) 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.</p>	<p>13.4.1.1 The demolition or removal of any structure or any part of a structure that is fixed in, on, under or over the bed of any lake or river, or any Regionally Significant Wetland, is a permitted activity providing:</p> <p>...</p> <p>(i) 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.</p>	<p>TrustPower opposes standard (i) of this rule for the reasons set out in relation to permitted activity rules 12.1.2.4, 12.1.2.5, 12.1.2.6, 12.2.2.5, 12.2.2.6, 12.3.2.1, 12.3.2.2, 12.3.2.3 above.</p>
<p>13.4.2 Restricted discretionary activities: Resource consent required</p> <p>13.4.2.1 Except as provided for by Rule 13.4.1.1, the demolition or removal of any structure or any part of a structure that is fixed in, on, under, or over the bed of any lake or river, or an Regionally Significant Wetland, is a restricted discretionary activity.</p> <p>In considering any resource consent for the demolition or removal of any structure in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:</p> <p>...</p> <p>(k) Any financial contribution for regionally significant wetland values or Regionally Significant Wetlands that are adversely affected.</p>	<p>13.4.2 Restricted discretionary activities: Resource consent required</p> <p>13.4.2.1 Except as provided for by Rule 13.4.1.1, the demolition or removal of any structure or any part of a structure that is fixed in, on, under, or over the bed of any lake or river, or an Regionally Significant Wetland, is a restricted discretionary activity.</p> <p>In considering any resource consent for the demolition or removal of any structure in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:</p> <p>...</p> <p>(k) Any financial contribution for regionally significant wetland values or Regionally Significant Wetlands that are adversely affected. <u>Whether,</u></p>	<p>TrustPower partially supports this Rule. TrustPower submits that consideration should be given to whether a financial contribution is necessary, and at what scale it would be required to ensure any financial contribution is constructive.</p>

	<p><u>and at what scale a financial contribution is necessary, such as when adverse effects on regionally significant wetlands cannot be avoided, remedied or mitigated.</u></p>	
<p>13.5 Alteration of the bed of a lake or river, or of a Regionally Significant Wetland 13.5.1 Permitted activities: No resource consent required 13.5.1.1 The disturbance of the bed of any lake or river, or any Regionally Significant Wetland, associated with:</p> <ul style="list-style-type: none"> (i) The erection, placement, extension, alteration, replacement, reconstruction, repair, maintenance, demolition or removal, of any structure that is fixed in, on, under or over the bed of any lake or river, or the wetland; or (ii) The clearance of debris or alluvium from within, or immediately surrounding, any structure in order to safeguard the function or structural integrity of the structure; or (iii) The maintenance or reinstatement of a water intake, in order to enable the exercise of a lawful take of water, <p>is a permitted activity, providing:</p> <ul style="list-style-type: none"> (a) Except in the case of the demolition or removal of a structure, the structure is lawfully established; and (b) Except in the case of (i), there is no increase in the scale of the existing structure; and (c) The bed or wetland disturbance is limited to the extent necessary to undertake the work; and (d) The bed or wetland disturbance does not cause any flooding or erosion; and (e) The time necessary to carry out and complete the whole of the work does not exceed 10 consecutive hours in duration; and (f) All reasonable steps are taken to minimise the release of sediment to the lake or river during the disturbance, and there is no conspicuous change in the colour or visual clarity of the water body beyond a distance of 250 metres downstream of the disturbance; and (g) No lawful take of water is adversely affected as a result of the bed or wetland disturbance; and (h) The site is left tidy following completion of the activity; and (i) 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 flora, fauna or its habitat, in or on any Regionally Significant Wetland. <p>*Rules 13.2.1.5 and 13.2.1.6 relate to the erection or placement of a maimai and the erection or placement of a whitebait stand or eel trap respectively. Rule 13.2.1.8 relates to the placement of a floating boom.</p>	<p>13.5.1.1 The disturbance of the bed of any lake or river, or any Regionally Significant Wetland, associated with:</p> <ul style="list-style-type: none"> (i) The erection, placement, extension, alteration, replacement, reconstruction, repair, maintenance, demolition or removal, of any structure that is fixed in, on, under or over the bed of any lake or river, or the wetland; or (ii) The clearance of debris or alluvium from within, or immediately surrounding, any structure in order to safeguard the function or structural integrity of the structure; or (iii) The maintenance or reinstatement of a water intake, in order to enable the exercise of a lawful take of water, <p>is a permitted activity, providing:</p> <p>...</p> <p>(i) 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 flora, fauna or its habitat, in or on any Regionally Significant Wetland.</p>	<p>TrustPower opposes standard (i) of this Rule for the same reasons set out in relation to permitted activity rules 12.1.2.4, 12.1.2.5, 12.1.2.6, 12.2.2.5, 12.2.2.6, 12.3.2.1, 12.3.2.2, 12.3.2.3 and referenced in relation to Rule 13.4.1.1 above.</p>
<p>13.5.1.3 The disturbance or reclamation of, or the deposition of any substance in, on or under, either the bed of any lake or river, or any Regionally Significant Wetland, for the purpose of:</p> <ul style="list-style-type: none"> (i) The erection, placement, extension, alteration, replacement, reconstruction, repair, maintenance, demolition or removal, of any structure carried out under Rules 13.2.1.1 to 13.2.1.7, 13.3.1.1, 13.3.1.2 or 13.4.1.1; or 	<p>13.5.1.3 The disturbance or reclamation of, or the deposition of any substance in, on or under, either the bed of any lake or river, or any Regionally Significant Wetland, for the purpose of:</p> <ul style="list-style-type: none"> (i) The erection, placement, extension, alteration, replacement, reconstruction, repair, maintenance, demolition or removal, of any structure carried out under Rules 13.2.1.1 to 13.2.1.7, 13.3.1.1, 13.3.1.2 or 13.4.1.1; or 	<p>TrustPower opposes standard (h) of this rule for the same reason set out in relation to permitted activity rules 12.1.2.4, 12.1.2.5, 12.1.2.6, 12.2.2.5, 12.2.2.6, 12.3.2.1, 12.3.2.2, 12.3.2.3 and referenced in relation to Rules 13.4.1.1 and 13.5.1.1 above.</p>

<p>(ii) The repair or maintenance of any defence against water constructed or placed by artificial means, is a permitted activity providing:</p> <p>(a) The structure or defence against water is lawfully established; and</p> <p>(b) There is no change to the original scale of the structure or defence against water; and</p> <p>(c) The time necessary to carry out and complete the whole of the work does not exceed 10 consecutive hours in duration; and</p> <p>(d) All reasonable steps are taken to minimise the release of sediment to the lake, or river or wetland during the activity, and there is no conspicuous change in the colour or visual clarity of the water body beyond a distance of 250 metres downstream of the activity; and</p> <p>(e) No lawful take of water is adversely affected as a result of the activity; and</p> <p>(f) In the case of reclamation or deposition, only cleanfill is used; and</p> <p>(g) The site is left tidy following completion of the activity.; and</p> <p>(h) Except for activities covered by Rules 13.2.1.5, 13.2.1.6, 13.2.1.8, 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.</p>	<p>(ii) The repair or maintenance of any defence against water constructed or placed by artificial means, is a permitted activity providing:</p> <p>...</p> <p>(h) Except for activities covered by Rules 13.2.1.5, 13.2.1.6, 13.2.1.8, 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.</p>	
<p>13.5.1.5A The alteration of any Regionally Significant Wetland, associated with the introduction, planting, removal or clearance of plant material is a permitted activity providing the control is carried out under Rules 13.6.2.0 or 13.7.1.2, or under a resource consent.</p>		TrustPower supports this Rule.
<p>13.5.1.6 Except as provided for by Rule 13.5.1.1, the extraction of alluvium within the bed of a river is a permitted activity, providing:</p> <p>(a) No person takes more than 20 cubic metres in any month; and</p> <p>(b) The alluvium is not taken from the wet bed of the river and the surface of the remaining alluvium is not left lower than the level of the water in the river; and</p> <p>(c) The area from which the material is taken is smoothed over, as far as practicable; and</p> <p>(d) The activity is not carried out within 20 metres of any structure which has foundations in the river bed, or any ford or pipeline; and</p> <p>(e) No material is taken directly from the bank or from any defence against water.</p>		TrustPower supports this Rule.
<p>13.5.2 Restricted discretionary activities: Resource consent required</p> <p>13.5.2.1 Except as provided for by Rules 13.5.1.1 and 13.5.1.6, the extraction of alluvium within the bed of a lake or river, or within any Regionally Significant Wetland, is a restricted discretionary activity.</p> <p>In considering any resource consent for the extraction of alluvium in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:</p> <p>(a) Any adverse effects of the activity on:</p> <p>(i) Any natural and human use value identified in Schedule 1 for any affected water body;</p> <p>(ii) The natural character of any affected water body;</p> <p>(iii) Any amenity value supported by any affected water body; and</p> <p>(iv) Any heritage value associated with any affected water body;</p>	<p>13.5.2 Restricted discretionary activities: Resource consent required</p> <p>13.5.2.1 Except as provided for by Rules 13.5.1.1 and 13.5.1.6, the extraction of alluvium within the bed of a lake or river, or within any Regionally Significant Wetland, is a restricted discretionary activity.</p> <p>In considering any resource consent for the extraction of alluvium in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:</p> <p>...</p> <p>(b) Any financial contribution for regionally significant wetland values or Regionally Significant Wetlands that are adversely affected-Whether, and at what scale a financial contribution is necessary, such as when adverse effects on regionally significant wetlands cannot be avoided, remedied or mitigated;</p>	TrustPower partially supports this Rule. TrustPower submits that consideration should be given to whether a financial contribution is necessary, and at what scale it would be required to ensure any financial contribution is constructive.

<p>and</p> <p>(aa) Any effect on any Regionally Significant Wetland or on any regionally significant wetland value; and</p> <p>(b) Any financial contribution for regionally significant wetland values or Regionally Significant Wetlands that are adversely affected;</p> <p>(c) Any adverse effect on a defence against water; and</p> <p>(d) The quantity of alluvium to be extracted, and the location and the method of removal; and</p> <p>(e) Any adverse effect on existing public access; and</p> <p>(f) The duration of the resource consent; and</p> <p>(g) The information and monitoring requirements; and</p> <p>(h) Any existing lawful activity associated with any affected water body; and</p> <p>(i) Any bond; and</p> <p>(j) The review of conditions of the resource consent.</p> <p>Except in the case of extraction from the wet bed of a lake or river, or within a Regionally Significant Wetland, applications may be considered without notification under Section 93 and without service under Section 94(1) of the Resource Management Act on persons who, in the opinion of the consent authority, may be adversely affected by the activity.</p>		
<p>13.5.3 Discretionary activities: Resource consent required</p> <p>13.5.3.2 Unless covered by Rules 13.5.1.1, 13.5.1.3, 13.5.1.5A, or 13.5.1.8, the alteration of any Regionally Significant Wetland, is a <i>discretionary activity</i>.</p>		TrustPower supports this Rule.
<p>13.6.2 Permitted activities: No resource consent required</p> <p>13.6.2.0 The introduction or planting of any New Zealand native plant to any Regionally Significant Wetland, is a <i>permitted activity</i> providing:</p> <p>(a) All reasonable steps are taken to minimise the release of sediment to the wetland during the introduction or planting; and there is no conspicuous change in the colour or visual clarity of the water body; and</p> <p>(b) The introduction or planting does not cause any flooding or erosion; and</p> <p>(c) The wetland alteration is limited to that which is necessary for the introduction or planting of the plant material.</p>		TrustPower supports these Rules.
<p>13.7 The removal of vegetation</p> <p>13.7.1 Permitted activities: No resource consent required</p> <p>13.7.1.2 The removal or clearance of plant material exotic to New Zealand from any Regionally Significant Wetland, is a <i>permitted activity</i> providing:</p> <p>(a) The plant is not Lagarosiphon (<i>Lagarosiphon major</i>) in Lake Wanaka or Lake Dunstan; and</p> <p>(b) All reasonable steps are taken to minimise the release of sediment to the wetland during the removal or clearance; and</p> <p>(c) The wetland alteration is limited to that which is necessary for the removal or clearance of the plant material.</p>		
<p>13.7.2 Controlled Activities: Resource consent required but always granted</p> <p>13.7.2.1 Except as provided for by Rules 13.7.1.1 and 13.7.1.2, physical removal of material of any of the following plants:</p> <p>(i) Lagarosiphon <i>Lagarosiphon major</i>; or</p>		TrustPower supports these Rules.

<p>(ii) Eel Grass Vallisneria spiralis; or (iii) Egeria Egeria densa; or (iv) Hornwort Ceratophyllum demersum; or (v) Hydrilla Hydrilla verticillata; or (vi) Sagittaria Sagittaria graminea ssp platyphylla; or (vii) Spartina Spartina anglica; or (viii) Salvinia Salvinia molesta; or (ix) Water Hyacinth Eichhornia crassipes; or (x) Water Lettuce Pistia stratiotes, from the bed of any lake or river, or from any Regionally Significant Wetland, is a controlled activity.</p> <p>In granting any resource consent for the removal of material of the above identified plants in terms of this rule, the Otago Regional Council will restrict the exercise of its control to the following:</p> <p>(a) The method of removal; and (aa) Any disturbance of a Regionally Significant Wetland. (b) The duration of the resource consent; and (c) The information and monitoring requirements; and (d) Any bond; and (e) The review of conditions of the resource consent.</p> <p>Applications may be considered without notification under Section 93 and without service under Section 94(1) of the Resource Management Act on persons who, in the opinion of the consent authority, may be adversely affected by the activity.</p>		
<p>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.</p>		
<p>16.3 Specific Information Requirements</p>	<p><u>Any activity managed by this Plan which has the potential to affect any wetland higher than 800 metres, must consider:</u></p> <ol style="list-style-type: none"> <u>1. Whether the wetland is associated with one or more of the regionally significant values identified in Policy 10.4.1; and if so</u> <u>2. The wetland is a Regionally Significant Wetland and the applicant must provide the following information:</u> <ol style="list-style-type: none"> <u>a. An assessment of the activity against the rules and standards pertaining to Regionally Significant Wetlands;</u> <u>b. An assessment of the effects of the activity on the wetland; and</u> <u>c. An assessment of the effects of the activity on any regionally significant wetland value.</u> 	<p>As aforementioned, TrustPower considers that only wetlands above 800m with one or more regionally significant wetland value should be classified as Regionally Significant Wetlands. TrustPower proposes an additional information requirement is included in Chapter 16 to provide guidance on assessing wetlands above 800m against the Water Plan's proposed provisions. TrustPower considers that formal guidance on what an assessment of effects on a wetland above 800m should entail is particularly important given that Significant Wetlands above 800m are not proposed to be listed in the Water Plan.</p>