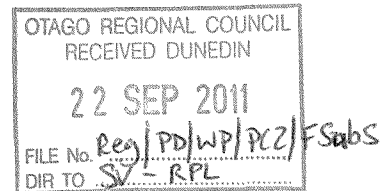


FURTHER SUBMISSIONS ON PROPOSED PLAN CHANGE 2 (REGIONALLY SIGNIFICANT WETLANDS) TO THE REGIONAL PLAN: WATER FOR OTAGO IN ACCORDANCE WITH CLAUSE 8 OF THE FIRST SCHEDULE OF THE RESOURCE MANAGEMENT ACT 1991

To: Chief Executive
Attention: Policy Group
Otago Regional Council
Private Bag 1954
DUNEDIN 9054



Further Submitter: Meridian Energy Limited
PO Box 2454
CHRISTCHURCH 8140

Attention: Andrew Feierabend
Phone: (03) 357 9731
Mobile: 021 878143
Email: andrew.feierabend@meridianenergy.co.nz

Meridian Energy Limited's ("Meridian") further submissions on submissions to Proposed Plan Change 2 (Regionally Significant Wetlands) to the Regional Plan: Water for Otago ("Plan Change 2") are set out in the **attached** document.

Meridian makes its further submissions on Plan Change 2 as a person who has an interest in the plan greater than the interest that the general public has in accordance with Sub-clause (1)(b) of Clause 8 of the First Schedule of the Resource Management Act 1991.

Meridian would like to be heard in support of its further submission.

If other persons make a similar submission then Meridian would consider presenting joint evidence at the time of the hearing.



Andrew Feierabend

For and behalf of Meridian Energy Limited

Dated this 23rd day of September 2011

**FURTHER SUBMISSIONS ON PROPOSED PLAN CHANGE 2 (REGIONALLY SIGNIFICANT WETLANDS)
TO THE REGIONAL PLAN: WATER FOR OTAGO IN ACCORDANCE WITH CLAUSE 8 OF THE FIRST
SCHEDULE OF THE RESOURCE MANAGEMENT ACT 1991**

MERIDIAN ENERGY LIMITED

SEPTEMBER 2011

Submitter	Sub Id	Provision	Relief Sought	Meridian Energy Position	Reasoning
Solid Energy	5	Policy 10.4.1A	Remove 10.4.1A(c) and replace with: <i>"(c) A wetland higher than 800 metres above sea level which has been subjected to an evaluation confirming its ecological values against the ecological criteria detailed in Schedule 9.</i>	Oppose	Meridian Energy agrees with the submitter that the classification of every wetland higher than 800 metres above sea level is arbitrary and not supported by ecological investigations. While Meridian Energy agree that wetlands should be identified via defined 'significance' criteria, the use of the term "Regionally Significant Wetland" should only apply to those wetlands identified in Schedule 9 or via an additional plan change process. In this regard, it is appropriate that landowners and resource users have certainty with respect to the application of Proposed Plan Change 2 to their properties and resource interests.
TrustPower Limited	40	Policy 10.4.1A	Resolution of confusion around the separation of wetlands identified in Schedule 9 that are not "Wetland Management Areas" from those that are.	Support	Meridian Energy agrees with the submitter that clarification of the different terminology utilised in relation to the classification of "Regionally Significant Wetlands" on the planning maps would be beneficial for Proposed Plan Change 2 and resource users.
New Zealand Railways	46	Policy 10.4.1A	Add definition to the glossary section of the Water Plan which clarifies that those	Support	Meridian Energy agrees with the submitter that the identification of "Regionally

Corporation			activities that occur on 'dry' land; such as land transport corridors located within the wider boundary area of the Regionally Significant Wetland shown in the revised Maps accompanying Plan Change 2 are not intended to be affected by the new controls.		Significant Wetlands" should be cognisant of existing human influences and areas of 'dry' land. In order to balance environmental protection with the need for landowners to provide for their social and economic wellbeing it is important that the boundaries and characteristics of "Regionally Significant Wetlands" in Proposed Plan Change 2 are appropriately ground-truthed.
TrustPower Limited	40	Chapter 16	<p>Include in the Water Plan formal guidance on what an assessment of effects on a wetland above 800m should entail.</p> <p>Include the following information requirement:</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> <p><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></p> <p><u>2. The wetland is a Regionally Significant Wetland and the applicant must provide the following information:</u></p> <p><u>a. An assessment of the activity against the rules and standards pertaining to Regionally Significant Wetlands;</u></p> <p><u>b. An assessment of the effects of the activity on the wetland; and c. An assessment of the effects of the activity on any regionally significant wetland value."</u></p>	Oppose	The relief proposed by the submitter would require any landowner with property at an elevation higher than 800 metres to commission their own ecological investigations to determine whether their property contained any "Regionally Significant Wetlands". Meridian Energy considers that the objectives, policies and rules governing the management of "Regionally Significant Wetlands" in Proposed Plan Change 2 should only apply to those wetlands which have been appropriately assessed and identified as 'significant' in accordance with Schedule 9 and a public consultation process.
Otago Fish and Game Council	8	Policy 10.4.1	<p>Add criterion:</p> <p>A10) <i>Importance of this wetland within the wider network of wetlands within its catchment.</i></p>	Oppose	The hydrological characteristics of wetlands are already identified as a criterion of regionally significant wetland values in Policy 10.4.1. As such, the relief proposed by the submitter is considered repetitive and

					unnecessary.
Hawkesbury Lagoon Inc	39	Policy 10.4.1	In identifying significant wetlands, ensure adequate weight is given to the pattern of wetlands in maintaining corridors and feeding sites for waterfowl.	Oppose	The importance of wetlands for providing habitat for the life-cycle of indigenous fauna is already captured in criterion A2 of Policy 10.4.1. As such, the relief proposed by the submitter is considered repetitive and unnecessary.
TrustPower	40	Policy 10.4.1	Amend Policy 10.4.1 as follows: " . . . A8 Regionally significant habitat for <u>indigenous</u> waterfowl; and . . ."	Support in Part	Notwithstanding Meridian Energy's own submission that it considers that identification criterion listed in A7 and A8 of Policy 10.4.1 effectively duplicate the matters already listed in criterion A1 to A6 (and therefore should be deleted), it is agreed that the focus of the criterion under Policy 10.4.1 should relate to indigenous fauna. The amendment proposed by the submitter would also better reflect section 6(c) of the RMA.
Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou, and Hokonui Runanga	38	Objective 10.3.1	Opposes removal of Kai Tahu cultural and spiritual beliefs, values and uses from objective 10.3.1.	Oppose	Meridian Energy recognises that the wetlands of the Otago Region are valued for a variety of reasons, including cultural values and uses by Kai Tahu. However, it would be inappropriate to amend Objective 10.3.1 to simply refer to one set of values associated with Otago's wetlands. Such an amendment would alter the balance currently provided by Objective 10.3.1. The current drafting of Objective 10.3.1 is considered to provide appropriate direction to resource users as to the management expectations for <u>all</u> values associated with wetlands in the Otago Region.
Department of Conservation	42	Objective 10.3.1	Amend: "Otago's wetlands and their values and <u>ecosystem</u> services will be maintained or and enhanced for present and future generations."	Oppose	It is not feasible or realistic to suggest that all wetland values in the Otago Region be maintained and enhanced. The current drafting of Objective 10.3.1 is considered to provide an appropriate management expectation for Otago's wetlands and would allow for the modification of wetland systems in exchange for the enhancement of alternative wetland sites / values.

Royal Forest and Bird Protection Society of New Zealand Inc	47	Objective 10.3.1	Delete Objective and replace with: <u>"To recognise and provide for the protection of the natural character, biodiversity and other values of wetlands in the regions."</u>	Oppose	The current drafting of Objective 10.3.1 is considered to provide appropriate direction to resource users as to the management expectations for <u>all</u> values associated with wetlands in the Otago Region. In addition, the current drafting of Objective 10.3.1 is considered to best reflect the sustainable management purpose of the RMA.
Otago Fish and Game Council	8	Chapter 10 general	Amend the objectives and policies to reflect that wetland boundaries are often indistinct and changeable. Suggested wording of new policy: <i>"Due to the seasonal variability of wetlands and their changing boundaries, resource consent applications on or near defined regionally significant wetland boundaries with likely wetland characteristics will be assessed to ensure that they have no adverse effect on the functioning of the wetland as a whole."</i>	Oppose	The policy suggested by the submitter is flawed and should not be adopted as it seeks that activities on, or near, regionally significant wetlands have "no adverse effects" on the functioning of the wetland. Such an outcome conflicts with Objective 10.3.1 and Policy 10.4.2 – neither of which adopt an approach of "no adverse effects". In addition, the ground-truthing and mapping of wetlands in Schedule 9 by ORC staff (as well as the public consultation process) is considered to provide an appropriate remedy for potential delineation issues associated with wetland boundaries.
Te Ao Marama Inc	16	Chapter 10 general	Include preservation of wetland, lake and river margins in the proposed plan change.	Oppose	Chapter 5 of the Regional Plan: Water for Otago already includes a range of provisions concerning the natural character and amenity values of lakes and rivers (and their margins). The inclusion of additional provisions in Chapter 10 would be repetitious and is unnecessary. In addition, the objectives, policies and rules in Proposed Plan Change 2 are generally considered to provide an appropriate framework for the management of wetland values in the Otago Region.
Hawkesbury Lagoon Inc	39	Chapter 10 general	Default position on rules and policies should be a conserved wetland rather than create permitted activities (To keep faith with the objective to "avoid").	Oppose	The submitter suggests that the default position in the rules and policies of Proposed Plan Change 2 should be based on 'conserving' wetland values given the focus in the objective on 'avoidance'. This

					understanding is incorrect as Objective 10.3.1 is focused on the maintenance or enhancement of Otago's wetlands. Maintenance and enhancement does not constitute 'conservation' or the 'avoidance' of adverse effects. As such, the relief proposed by the submitter should not be adopted.
Royal Forest and Bird Protection Society of New Zealand Inc	47	Chapter 10 general	<p>Insert new policy and explanation:</p> <p><u>"Policy x.x.x: To recognise and protect wetlands that are shown to have significant values that are not identified on Schedule 9, and to protect those values by controlling activities in wetlands and their margins to ensure their ecosystem functioning, natural character and habitat values are sustained.</u></p> <p><u>Explanation: It is stated in the introduction to Schedule 9 that Schedule 9 is not exhaustive, and therefore not all wetlands with significant values have been identified. This policy recognises and provides for the protection of the values of those unidentified wetlands."</u></p>	Oppose	<p>The relief proposed by the submitter is opposed by Meridian Energy as it is appropriate that any 'significant' wetlands that are not currently identified in Schedule 9 be assessed via the criteria in Policy 10.4.1 and included in Schedule 9 via a separate plan change process.</p> <p>The value and certainty provided to all resource users by Schedule 9 will be eroded if additional 'significant' wetlands are identified and managed outside of the current framework of Proposed Plan Change 2.</p>
Royal Forest and Bird Protection Society of New Zealand Inc	47	Chapter 10 general	<p>Insert new policy and explanation:</p> <p><u>"Unidentified wetlands will be assessed using the following ecological criteria: 1. Ecological context 2. Representative wetlands 3. Rarity 4. Distinctiveness</u></p> <p><u>Explanation: It is possible that not all wetlands with significant values have been identified on Schedule 9. This policy recognises and provides for the protection of these wetlands. The policy also introduces an ecological criteria (Appendix XX) that will be used when assessing those wetlands. Where an assessment of any wetlands is required for resource consent purposes it shall be carried out in accordance with the ecological criteria set out in Appendix XX."</u></p>	Oppose	The relief proposed by the submitter is opposed by Meridian Energy as Policy 10.4.1 already identifies the characteristics and values utilised to classify wetlands as "Regionally Significant Wetlands". The relief proposed by the submitter would alter the basis by which wetlands are classified as significant and included in Schedule 9.
Royal Forest	47	Chapter 10	Insert new policy and explanation:	Support in Part	While Meridian Energy does not support the

and Bird Protection Society of New Zealand Inc		general	<p><u>"Where an assessment has been undertaken on a wetland that is not identified on Schedule 9 and is shown to be significant these wetlands will be added to Schedule 9."</u></p> <p><u>Explanation: It is possible through resource consent processes that significant wetlands not included on Schedule 9 will be identified. It is appropriate that these significant wetlands are added to Schedule 9. In doing so the wetlands on Schedule 9 will be derived from two different processes (Policy 10.4.1 and Policy x.x.x (see policy directly above)) and this is appropriate because the management of these significant wetlands will be consistent. Changes to Schedule 9 to include wetlands will be the subject of a plan change process."</u></p>		assessment process proposed by the submitter to assess wetlands not identified in Schedule 9, it does support the inclusion of any additional wetlands into Schedule 9 via a plan change process. In this regard, it is appropriate that any additions to Schedule 9 are undertaken as part of a process that is transparent and allows for participation by resource users and landowners.
Royal Forest and Bird Protection Society of New Zealand Inc	47	Chapter 10 general	<p>Insert new policy and explanation:</p> <p><u>"Policy x.x.x To recognise and provide for the protection of wetlands by managing adverse effects of activities on the values present, including natural character, ecosystem functioning, biodiversity, aesthetics or amenity values."</u></p> <p><u>Explanation: All wetlands are required to be managed sustainably in accordance with RMA, not just those are determined as being significant. Within Part 2 of the RMA wetlands are to be managed to protect biodiversity, natural character and other values.</u></p>	Oppose	<p>The policy proposed by the submitter is opposed by Meridian Energy as it provides very little direction as to how potential adverse effects on wetland values should be managed. In this regard, the policy simply seeks that the adverse effects of activities be 'managed'.</p> <p>In addition, the proposed policy fails to delineate the management of wetland which are 'regionally significant' (and included in Schedule 9) from those which are not significant. Such an approach is considered inappropriate and places too high a level of management on wetlands which are either highly modified or have limited values.</p>
Contact Energy Limited	30	Rule 12.1.1A.1	That the non-complying activity status proposed for activities controlled by Chapter 12 be not approved and that such activities remain as discretionary activities.	Support	Meridian Energy agree with the submitter that an activity with adverse effects on a "Regionally Significant Wetland" may still be appropriate and that the use of a discretionary activity would still allow a robust examination of any consent applications to take and use surface water.
Royal Forest	47	Rules	Amend 12.1.2.4(b):	Oppose	The amendments to the clause regarding

and Bird Protection Society of New Zealand Inc		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, 12.5.1.1	<p><i>"The water is not taken from and there is no change to the water level or hydrological function, or no damage to the <u>indigenous flora, fauna or its habitat, in or on any Regionally Significant Wetland, or wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.</u>"</i></p> <p>Add the following permitted rule conditions: <u>"(a) Effects on biological diversity and ecological values; and</u> <u>(b) Effects on the natural character of wetlands and their margins."</u></p>		<p>'water takes not change water levels or hydrological functioning' are opposed by Meridian Energy as they continue to result in the clause failing to provide sufficient certainty to enable a determination to be made as to whether an activity is a permitted or not.</p> <p>Likewise, the additional conditions sought by the submitter to Rules 12.1.2.4, 12.1.2.5, 12.1.2.6, 12.3.2.1, 12.3.2.2, 12.3.2.3 are inappropriate. In this regard, the conditions proposed are effectively assessment matters to be considered in a controlled or restricted discretionary activity rule and do not fit within the framework of a permitted activity.</p>
Royal Forest and Bird Protection Society of New Zealand Inc	47	Rules 12.1.4.8, 12.2.3.4, 12.3.3.1, 12.4.2.1, 12.5.2.1, 13.2.2.1	<p>Add new discretionary matters:</p> <p><u>"(a) Effects on biological diversity and ecological values; and</u> <u>(b) Effects on the natural character of wetlands and their margins."</u></p> <p>Amend:</p> <p><i>"Any effect on any Regionally Significant Wetland or on any regionally significant wetland value <u>or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.</u>"</i></p>	Oppose	<p>Rules 12.1.4.8, 12.2.3.4, 12.3.3.1, 12.4.2.1, 12.5.2.1, 13.2.2.1 already enable consideration of 'any' potential adverse effects on any Regionally Significant Wetland or regionally significant wetland value. As such, the relief proposed by the submitter is already considered to be captured by the assessment criteria in the rule and is considered unnecessary and should not be adopted.</p>
Contact Energy Limited	30	Rule 12.3.1A.1	<p>That the non-complying activity status proposed for activities controlled by Chapter 12 be not approved and that such activities remain as discretionary activities.</p>	Support	<p>Meridian Energy agree with the submitter that an activity with adverse effects on a Regionally Significant Wetland may still be appropriate and that the use of a discretionary activity would still allow a robust examination of any consent applications to take and use surface water.</p>
Royal Forest and Bird Protection Society of New Zealand Inc	47	Rule 13.3.2.1	<p>Delete "<i>or any Regional Significant</i>" from the introduction to the rule.</p> <p>Amend (aa):</p>	Oppose	<p>The removal of the words "<i>or any regionally significant</i>" from Rule 13.3.2.1 is opposed by Meridian Energy and should not be adopted as Proposed Plan Change 2 is primarily concerned with managing the effects of</p>

			<p>"Any effect on any Regionally Significant Wetland or on any regionally significant wetland <u>that meets the significance criteria listed in Appendix XX Ecological Criteria; and</u>"</p> <p>Add new matter of discretion:</p> <p><u>"(m) Any effects on biological diversity and ecological values."</u></p>		<p>activities on wetlands that are classified as 'significant' in the Otago Region.</p> <p>The amendment proposed by the submitter would also broaden the scope of Rule 13.3.2.1 in a manner not supported by the objectives and policies in Proposed Plan Change 2.</p>
Contact Energy Limited	30	Protection general	The opportunity to mitigate or offset the effects of activities on Regionally Significant Wetlands be given recognition in the objectives, policies, and rules.	Support in Part	Meridian Energy agrees with the submitter that the objectives, policies and rules of Proposed Plan Change 2 should be sufficiently flexible to allow for the mitigation or offsetting of adverse effects on Regionally Significant Wetlands. Any such amendments would acknowledge that section 5(2)(c) of the RMA is not a strict hierarchy and that the mitigation of adverse effects on wetlands can still result in sustainable management be achieved.
Contact Energy Limited	30	Policy 10.4.2A	That the new Policy 10.4.2A on financial contributions be amended to clarify that not every effect not avoided, remedied or mitigated is required to be addressed by way of financial contribution for environmental compensation, but only those residual effects above a certain threshold - being more than minor effects. Appropriate clarification of the circumstances, purpose and method of determining the contribution amount should also be provided.	Support in Part / Oppose in Part	<p>Meridian Energy agrees with the submitter that it is appropriate that Policy 10.4.2.A and Proposed Plan Change 2 provide greater clarity as to the circumstances when financial contributions may be required.</p> <p>This said, Meridian Energy does not accept the concept that all residual adverse effects that are 'more than minor' need to be addressed via a financial contribution. There is no justification in the RMA for concluding that 'more than minor adverse effects' should be the threshold for requiring financial contributions.</p>
Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou, and Hokonui Runanga	38	Policy 10.4.2A	<p>Amend Policy 10.4.2A:</p> <p><i>"Where the avoidance, remedy or mitigation of adverse effects is not possible (agreed upon by stakeholders including nga Runanga), financial contribution may be required to:</i></p> <p><i>(a) Restore or rehabilitate regionally</i></p>	Oppose	A determination as to whether the avoidance, remediation or mitigation of adverse effects is possible or not does not require the input of stakeholders. As such, the amendment to Policy 10.4.2.A proposed by the submitter is considered inappropriate.

			<p><i>significant wetlands or regionally significant values where those have been degraded; and</i></p> <p><i>(b) Restore or rehabilitate regionally significant wetlands or regionally significant values where those have been lost."</i></p>		
TrustPower Limited	40	Financial Contribution Rules	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.	Support	Meridian Energy agrees with the submitter that it is appropriate that Proposed Plan Change 2 provide greater clarity as to the circumstances when financial contributions may be required.
Contact Energy Limited	30	Schedule 9 general	Clarify statement "Schedule 9 is not exhaustive" and make it explicit in order to provide certainty.	Support	Meridian Energy agrees with the submitter that the statement "Schedule 9 is not exhaustive" creates uncertainty and that it would be ultra vires to include additional wetlands in Schedule 9 without a plan change process.
Otago Conservation Board	27	Schedule 10	Schedule 10 areas which are not going to be added into Schedule 9 should be re-evaluated and, where appropriate, given protection.	Oppose	<p>The relief proposed by the submitter is opposed by Meridian Energy as the Otago Regional Council has already undertaken a process of determining which wetlands are 'regionally significant' and should be included in Schedule 9.</p> <p>It would be inappropriate to include wetlands that are not 'regionally significant' in Schedule 9 and, therefore, make them subject to the objectives, policies and rules governing the management of significant values.</p>
The Retreat Trust	28	Schedule 9 – Map F53	Oppose the proposed Plan Change. Take the tussock ground out of the fen system.	Support in Part	Meridian Energy agree that only those wetland features and values which are 'significant' in accordance with section 6(c) of the RMA and Policy 10.4.1 should be identified as 'significant' in Schedule 9. As such, if components of the wetlands identified on Map F53 do not meet the threshold of 'significant' they should be deleted from Schedule 9.
SH Andrews and Sons Ltd	7	Schedule 9 – Maps F22 to	Redraw the map within our property to exclude additional areas that are not genuine	Support in Part	Meridian Energy agree that only those wetland features and values which are

		28	wetlands.		'significant' in accordance with section 6(c) of the RMA and Policy 10.4.1 should be identified as 'significant' in Schedule 9. As such, if components of the wetlands or boundaries identified on Maps F22 to F28 do not meet the threshold of 'significant' they should be deleted from Schedule 9.
Department of Conservation	42	Schedule 9 – Map F22 to 28	Retain wetland and amend mapping to reflect that in Appendix 2.	Oppose	Meridian Energy is opposed to the amendments to the boundaries of the Upper Taieri Wetland Complex proposed by the submitter as it does not consider that all of the amendments accurately reflect the true extent of the wetland complex. The boundaries of the wetlands in Schedule 9 should only include those wetland areas which contain hydrological and ecological values which contribute to a site being classified as a "Regionally Significant Wetland".
Contact Energy Limited	30	Schedule 9 – Wetland Values	Opposes the removal of all descriptive information on each listed wetland, and the development of a separate non-regulatory inventory.	Support	Meridian Energy agrees with the submitter that it is appropriate that those wetlands identified as 'regionally significant' in Schedule 9 have their 'significant' values described. In this regard, it would provide transparency and certainty for resource users if Schedule 9 described the values which resulted in particularly wetlands being identified as 'regionally significant'.
TrustPower Limited	40	Schedule 9 – Wetland Values	Regionally significant values ascribed to each Regionally Significant Wetland should be included in Schedule 9 to the Water Plan.	Support	Meridian Energy agrees with the submitter that it is appropriate that those wetlands identified as 'regionally significant' in Schedule 9 have their 'significant' values described. In this regard, it would provide transparency and certainty for resource users if Schedule 9 described the values which resulted in particularly wetlands being identified as 'regionally significant'.
Royal Forest and Bird Protection Society of New Zealand Inc	47	Miscellaneous	Retain issues, Explanations, Principle Reasons, Anticipated Results, and cross references.	Support in Part	Meridian Energy agrees with the submitter that Proposed Plan Change 2 would provide greater direction and certainty for plan users if there was explanatory text accompanying each of the objectives and policies.

					This said, any explanatory text accompanying the objectives and policies of Proposed Plan Change 2 should reflect the revised objectives and policies and not that which existed before the plan change was notified.
Department of Conservation	42	Minor consequential amendments	Amend so that s 95 of the RMA is referred to.	Support in Part	Meridian Energy agree with the submitter that it is appropriate that the various rules in Proposed Plan Change 2 be updated to reflect the amendments that have been made to the RMA with respect to the notification of resource consent applications. Proposed Plan Change 2 should, however, retain its existing approach to the potential non-notification of resource consent applications.