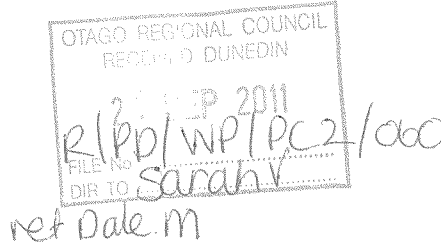


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19 September 2011

Planning Department
Otago Regional Council
Private Bay 1954
DUNEDIN 9054



Our Ref: 4652

Attention: Sarah Valk

Dear Sarah

RE: FURTHER SUBMISSIONS ON SUBMISSIONS ALREADY MADE ON PLAN CHANGE 2 - (REGIONALLY SIGNIFICANT WETLANDS) TO THE WATER PLAN FOR OTAGO.

Please find enclosed with this letter further submissions prepared on behalf of our client OtagoNet Joint Venture Limited with respect to submissions already made on Plan Change 2. The further submissions made will also be served on the initial submitters in accordance with the Resource Management Act 1991.

Yours sincerely,
MITCHELL PARTNERSHIPS

Joanne Dowd

J DOWD

Email: joanne.dowd@mitchellpartnerships.co.nz

Enc

cc: OtagoNet Joint Venture Limited

**FURTHER SUBMISSIONS IN SUPPORT OF OR IN OPPOSITION TO SUBMISSIONS
ON A PROPOSED PLAN CHANGE UNDER CLAUSE 8 OF THE FIRST SCHEDULE TO
THE RESOURCE MANAGEMENT ACT 1991**

To: Otago Regional Council
Private Bag 1954
DUNEDIN 9054

Submission on: Plan Change 2- Regionally Significant Wetlands

Name: OtagoNet Joint Venture

Address: PO Box 1642
INVERCARGILL

Contact Person: Joanne Dowd, Mitchell Partnerships Limited
Phone: 03 477 7884

Further submissions from OtagoNet Joint Venture on the submissions on Plan Change 2 are attached to this document in Table Form.

OtagoNet Joint Venture wishes to be heard in support of its submission.

If others make similar submissions, OtagoNet Joint Venture would be prepared to consider a joint case.



Signature: Joanne Dowd
(on behalf of OtagoNet Joint Venture)

Date: 19 September 2011

Address for Service: OtagoNet Joint Venture
PO Box 489
Dunedin

Attention: Joanne Dowd

Telephone: 03 477 7884

Facsimile: 03 477 7691

Provision: 9 Chapter 10 Wetlands - Policy 10.4.2 – Priority on avoiding adverse effects

Submitter	Decision Requested	OtagoNet's Position	Further Submission
Otago Fish and Game Council	Supports the proposed preference for the avoidance of adverse effects where possible.	Oppose	Policy 10.4.2 gives primacy to the avoidance of adverse effects of activities on Regionally Significant Wetlands over remediation or mitigation. OtagoNet opposes this Policy. OtagoNet is concerned with the primacy that has been given to avoiding adverse effects, as the application of sustainable management cannot be fulfilled if primacy is given to the term 'avoid' over that of 'remedying' or 'mitigating'.
Otago Conservation Board	Strongly supports the intention to avoid adverse effects on wetlands rather than to remedy or mitigate such effects.	Oppose	Policy 10.4.2 gives primacy to the avoidance of adverse effects of activities on Regionally Significant Wetlands over remediation or mitigation. OtagoNet opposes this Policy. OtagoNet is concerned with the primacy that has been given to avoiding adverse effects, as the application of sustainable management cannot be fulfilled if primacy is given to the term 'avoid' over that of 'remedying' or 'mitigating'.
Department of Conservation	Supports proposed Policy 10.4.2	Oppose	Policy 10.4.2 gives primacy to the avoidance of adverse effects of activities on Regionally Significant Wetlands over remediation or mitigation. OtagoNet opposes this Policy. OtagoNet is concerned with the primacy that has been given to avoiding adverse effects, as the application of sustainable management cannot be fulfilled if primacy is given to the term 'avoid' over that of 'remedying' or 'mitigating'.
Royal Forest and Bird Protection Society of NZ	Supports proposed Policy 10.4.2	Oppose	Policy 10.4.2 gives primacy to the avoidance of adverse effects of activities on Regionally Significant Wetlands over remediation or mitigation. OtagoNet opposes this Policy. OtagoNet is concerned with the primacy that has been given to avoiding adverse effects, as the application of sustainable management cannot be fulfilled if primacy is given to the term 'avoid' over that of 'remedying' or 'mitigating'.
Clutha District Council	Clutha District Council considers the requirement to always avoid adverse effects where possible is too strict and inflexible. It is counter to the regime set up in Part 5 of the RMA, which treats 'avoid', 'remedy' and 'mitigate' equally, and is also contrary to the established principle in Schedule 1 Resource Management (Forms, Fees, and Procedure) Regulations 2003 that the Act contemplates that activities can have adverse effects and still be acceptable.	Support in part	OtagoNet agrees with the submission by Clutha District Council in stating that the Act accords an equal value to avoiding, remedying or mitigating adverse effects equally.

Provision: 153 Chapter 10 Wetlands - General

Submitter	Decision Requested	OtagoNet's Position	Further Submission
Otago Fish and Game Council	Requested changes to the wording of Chapter 10 objectives and polices to: <i>Due to the seasonal variability of wetlands and their changing boundaries, resource consent application on or near defined regionally significant wetland boundaries with likely wetland characteristics will be assessed to ensure that they have no adverse effects on the functioning of the wetland.</i>	Oppose	The requested wording seeks to ensure activities will have no adverse effects . OtagoNet is concerned with the primacy that has been given to avoiding adverse effects, as the application of sustainable management cannot be fulfilled if primacy is given to the term 'avoid' over that of 'remedying' or 'mitigating'.
Hawksbury Lagoon Inc	That the position of 'avoiding' effects on wetlands is maintained throughout all provisions relating to wetlands.	Oppose	OtagoNet is concerned with the primacy that has been given to avoiding adverse effects, as the application of sustainable management cannot be fulfilled if primacy is given to the term 'avoid' over that of 'remedying' or 'mitigating'.

Provision: 92 Chapter 12 – General

Submitter	Decision Requested	OtagoNet's Position	Further Submission
Hawksbury Lagoon Inc	That the position of 'avoiding' effects on wetlands is maintained throughout all provisions relating to wetlands.	Oppose	OtagoNet is concerned with the primacy that has been given to avoiding adverse effects, as the application of sustainable management cannot be fulfilled if primacy is given to the term 'avoid' over that of 'remedying' or 'mitigating'.
Department of Conservation	DoC have submitted that the majority of the Rules in Chapter 12 be retained with no amendments as they are consistent with Part 2 of the Act.	Oppose	OtagoNet submits that some changes are necessary to these rules as 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. Rules (or standards in rules) associated with a high degree of subjectivity should be revised and amended or deleted. 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.

Provision: 99 Chapter 13 – Rule 13.2.11 – Erection or placement of fence, pipe, line or cable over the bed

Submitter	Decision Requested	OtagoNet's Position	Further Submission
Federated Farmers of New Zealand	That Rule 13.2.11 be retained as proposed.	Oppose	OtagoNet Joint venture has proposed amendments to this rule which provide greater certainty to users of the plan.

Provision: 155 Chapter 13 – General

Submitter	Decision Requested	OtagoNet's Position	Further Submission
Contact Energy Limited	The opportunity to offset or mitigate the effects of activities on Regionally Significant Wetlands be given recognition on the rules.	Support	
Hawksbury Lagoon Inc	That the position of 'avoiding' effects on wetlands is maintained throughout all provisions relating to wetlands.	Oppose	This position does not align with the principle of sustainable management which seeks to avoid, remedy of mitigate adverse effects on the environment.
Department of Conservation	DoC have submitted that the majority of the Rules in Chapter 13 be retained with no amendments as they are consistent with Part 2 of the Act.	Oppose	OtagoNet submits that some changes are necessary to these rules as 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. Rules (or standards in rules) associated with a high degree of subjectivity should be revised and amended or deleted. 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.
Royal Forest and Bird Society	Proposes additional permitted activity conditions for Permitted activities Rules in Chapter 13.	Oppose	The new permitted activity conditions proposed by the Royal Forest and Bird Society are not measureable conditions and do not allow for compliance to be objectively assessed.
Te Runanga o Moeraki, Kati Huriapa Runaka ki Puketeraki, Te Runanga o Otakou, and Hokonui Runanga	Add provision to all permitted activities where it concerns permanent structures in or possible effects on regionally significant wetland: <i>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.</i>	Oppose	OtagoNet oppose the proposed rule as it does not allow compliance to be objectively determined. The rule is also outside of the scope of Section 6(c) of the Act which relates to significant indigenous vegetation and significant habitats of indigenous fauna.