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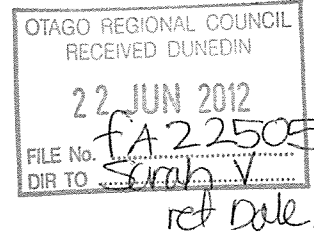
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21 June 2012

Otago Regional Council
Private Bag 1954
Dunedin 9054

Attention Fraser McRae



**Notice of Appeal - TrustPower Limited v Otago Regional Council
Regional Plan: Water for Otago - Proposed Plan Change 2 (Regionally Significant Wetlands)**

We act for TrustPower Limited.

We **enclose** by way of service a copy of our client's Notice of Appeal on Proposed Plan Change 2 to the Regional Plan: Water for Otago.

Yours faithfully
HOLLAND BECKETT

LARA BURKHARDT
Partner

encl.

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LCB-130354-319-26-V1:abb

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IN THE MATTER of the Resource Management Act
1991 (the **Act**)

A N D

IN THE MATTER of an appeal pursuant to clause 14
of the First Schedule to the Act

BETWEEN **TRUSTPOWER LIMITED**

Appellant

A N D **OTAGO REGIONAL COUNCIL**

Respondent

NOTICE OF APPEAL

TO: The Registrar
Environment Court
CHRISTCHURCH

1. **TRUSTPOWER LIMITED (Appellant)** appeals against decisions of the Otago Regional Council (**Respondent**) on Proposed Plan Change 2 (Regionally Significant Wetlands) to the Regional Plan: Water for Otago (**Plan Change 2**).
2. The Appellant made submissions and further submissions on Plan Change 2.
3. The Appellant is not a trade competitor for the purposes of section 308D of the Act.
4. The Appellant received notice of the decisions on 14 May 2012.
5. The decisions were made by the Respondent.
6. The decisions appealed, reasons for appeal and relief sought are generally grouped together by topic and are set out below generally in the order in which the relevant provisions appear in Plan Change 2.

7. **Objectives for wetlands**

Objectives 10.3.1 and 10.3.2
Glossary

7.1 The decisions appealed are as follows:

- (a) The decision to reject the Appellant's submission to amend Objective 10.3.1 and to introduce a new Objective in the manner sought to give greater recognition to human use values associated with regionally significant wetlands.
- (b) The decision to reject the Appellant's submission to introduce a new Policy to promote sustainable integrated management where there is an overlap in regionally significant wetlands and their values and regionally or nationally significant human use values, such as TrustPower's Waipori hydroelectric power scheme.
- (c) The decision to reject TrustPower's submission to introduce a Management Zone concept to recognise and provide for existing human use influences on the Loch Luella and Loch Louden Fen Complexes.

7.2 The reasons for the appeal are as follows:

- (a) Expert planning and ecological evidence provided to the Respondent considered that human use values and influences on regionally significant wetlands have not been recognised and provided for. Although the Respondent has sought to address this issue by, amongst other things, including a new Objective 10.3.2 which specifically addresses regionally significant wetlands the amendments are inadequate and inappropriate.
- (b) It is relevant and appropriate to include more explicit recognition in the provisions of Plan Change 2 of the human use values and influences on regionally significant wetlands. This is particularly so with respect to existing renewable electricity generation facilities and the requirement to "give effect" to the National Policy Statement on Renewable Electricity Generation 2011 and, ultimately, the need to

promote the sustainable integrated management of both natural and physical resources.

- 7.3 The Appellant seeks that Objectives 10.3.1 and 10.3.2 be amended, replaced and/or new provisions (including rules) introduced which give greater regard to human use values and influences.

8. Priority on avoiding adverse effects

Policies 10.4.2 and 10.4.A

- 8.1 The decision appealed is as follows:

- (a) The decision to reject the Appellant's submission on Policy 10.4.2 to remove the hierarchy between the avoidance, remediation and mitigation of adverse effects on regionally significant wetlands.
- (b) The decision to reject the Appellant's submissions to include new provisions which have regard to existing human use values in the manner sought.

- 8.2 The reasons for the appeal are as follows:

- (a) Expert planning evidence provided to the Respondent considered that the rigid application of a hierarchy may not be appropriate in all cases and that provision ought to be made for the consideration of existing human use values.
- (b) Although the reasons for the Respondent's decision address some of the concerns TrustPower raised in its submissions, the amendments to Policy 10.4.2 to reflect these matters are inadequate and inappropriate, for example by:
 - (i) Only allowing for the remediation or mitigation of an adverse effect where that effect cannot be avoided; and
 - (ii) Requiring that the above limb be met in conjunction with recognising the opportunities for remediation or mitigation of an

adverse effect by lawfully existing or nationally important activities.

- (c) There is also uncertainty as to the interpretation and application of Policy 10.4.2, in particular in relation to:
 - (i) The assessment of when an adverse effect cannot be avoided;
 - (ii) What activities are appropriately considered to be nationally important in light of the National Policy Statement on Renewable Electricity Generation 2011; and
 - (iii) The relationship between the provision of environmental compensation as a means of mitigating adverse effects on the environment and the provisions for financial contributions under Policy 10.4.2A and associated rules.

8.3 The Appellant seeks that Policies 10.4.2 and 10.4.2A be amended, replaced and/or new provisions (including rules) introduced which provide greater flexibility in terms of the provision of a hierarchy between the avoidance, remediation and mitigation of adverse effects on regionally significant wetlands, particularly with respect to the effects of lawfully existing or nationally important activities; and which provide greater guidance as to the circumstances in which financial contributions are required (such as under Rule 13.3.2).

9. Further Reasons for the Appeal

9.1 In addition to the matters set out in paragraphs 7 and 8 above, the further reasons for the appeal are that the Respondent's decision:

- (a) Will not promote the sustainable management of natural and physical resources and is contrary to Part 2 and other provisions of the Act;
- (b) Is not necessary to avoid, remedy or mitigate adverse effects on the environment; and

- (c) Does not represent the most appropriate means of exercising the Respondent's functions, having regard to the efficiency and effectiveness of other available means and therefore is inappropriate in terms of section 32 and other provisions of the Act.

10. **Further relief sought**

10.1 In addition to the matters set out in paragraphs 7 and 8 above, the Appellant seeks the following relief:

- (a) Any similar relief with like effect;
- (b) Any consequential amendments to Plan Change 2 which arise from the reasons for the appeal or the relief sought, including particularly the rules that seek to implement the objectives and policies subject to this appeal; and
- (c) Such other relief as the Court considers appropriate.

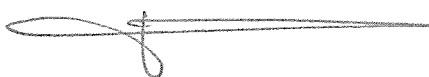
11. **Attachments**

11.1 Copies of the following documents are attached to this appeal:

- (a) The Appellant's submissions and further submissions (**Annexure A**);
- (b) The Respondent's decision (**Annexure B**); and
- (c) A list of the names and addresses of the persons to be served with a copy of this notice of appeal (**Annexure C**).

Signature:

TRUSTPOWER LIMITED by its duly authorised agent:



Lara Burkhardt
Counsel for the Appellant

Date:

21 June 2012

Address for service of Appellant:

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Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

**How to obtain copies of documents relating to appeal*

The copy of this notice served on you does not attach a copy of the appellant's submission or the decision appealed. These documents may be obtained, on request, from the appellant.

Advice

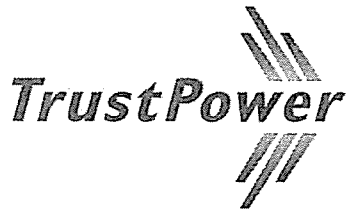
If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Auckland, Wellington or Christchurch.



Annexure A

A copy of the Appellant's submissions and further submissions

LCB-130354-319-17-V1:abb



22 September 2011

Otago Regional Council
Private Bag 1954
DUNEDIN 9054

Attention: Planning Department

Dear Sir/Madam

**RE: PROPOSED PLAN CHANGE 2 (REGIONALLY SIGNIFICANT WETLANDS)
TO THE WATER PLAN FOR OTAGO - FURTHER SUBMISSIONS**

TrustPower Limited ("TrustPower") appreciates this opportunity to make further submissions on Proposed Plan Change 2 (Regionally Significant Wetlands) to the Water Plan for Otago ("Plan Change 2" / "the Plan Change"). TrustPower has previously provided feedback on the consultation draft for Plan Change 2 on the 24th of September 2010 and submitted on the proposed Plan Change on the 29th of July 2011. The enclosed further submissions follow on from TrustPower's previous comments and submissions pertaining to Plan Change 2.

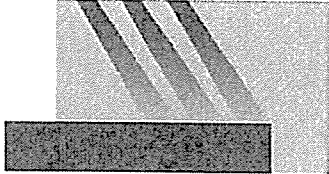
TrustPower's electricity generation assets in the Otago Region confirms that TrustPower is considered to have an interest in the proposed plan change greater than the interest of the general public, and is permitted to make further submissions on this plan change.

Further Submissions

Please refer to TrustPower's further submissions which are attached as **Attachment 1**.

In summary, TrustPower:

- Supports submissions seeking to recognise and provide for human use influences in relation to wetlands.
- Opposes submissions by parties seeking to apply the Plan Change to wetlands that have not been classified as "regionally significant" by the Otago Regional Council ("ORC") or through the consultation process. Council did not intend for non-scheduled wetlands to be included in the regionally significant wetland



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provisions and TrustPower does not consider that they should be included. ORC has undertaken the rigorous task of identifying wetlands in Otago with regionally significant values. Stakeholders and submitters have had the opportunity to comment on the scheduled wetlands and seek that additional wetlands that contain regionally significant wetland values are awarded protection. Wetlands may be added to Schedule 9 and awarded protection through a formal plan change process if appropriate.

- Opposes submissions by parties who seek to include the importance of a wetland to the wider network of wetlands / wetland patterns in the criteria for assessing regionally significant wetlands. All wetlands are part of the wider hydrological system; therefore this is not an appropriate criterion for wetlands to be classified as "regionally significant", especially given only one criterion has to be triggered for a wetland to be classified as regionally significant.
- Opposes submissions seeking to make the removal or clearance of native plant material from any Regionally Significant Wetlands a non-complying activity. The existing discretionary activity status is wholly appropriate for the removal or clearance of native plant material – it requires an assessment of the proposed activity, and enables applications to be declined where they are deemed unsustainable. In some cases indigenous vegetation removal is incidental to the establishment and/or necessary safe and efficient operation of authorised activities and generates minor or less than minor effects; such removal does not warrant non-complying activity status.
- Opposes additional permitted activity conditions and other assessment criteria proposed to be included in the rules by submitters that are too subjective to be adequately assessed, are inappropriate / too restrictive given the activity to which they relate, or are repetitive of rules and assessment criteria already included, or proposed to be included, in the Water Plan.
- Opposes submissions inconsistent with Section 5(2) of the Act; in particular the Act does not provide for "no adverse effects".
- Opposes submissions inconsistent with Section 6(a) of the Act. The Act does not provide for the outright protection of wetlands – it provides for their protection from inappropriate subdivision, use and development.
- Opposes submissions that reverse the simplifying and streamlining that has been undertaken by ORC, including submissions seeking to reinstate Schedule 10.

Yours sincerely,
TRUSTPOWER LIMITED



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ATTACHMENT 1

Further Submissions

Part 1: Regionally Significant Wetlands and values

What is a Regionally Significant Wetland

7.139 Policy 10.4.1A - Definition of a Regionally Significant Wetland

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Treble Cone Investments Limited	2	Amend	Delete 10.4.1A(c).	<ul style="list-style-type: none"> Remove provisions that relate to wetlands higher than 800m. 	Support – this relief would satisfy TrustPower's concerns in relation to wetlands above 800m.
Solid Energy New Zealand Ltd	5	Amend	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>	<ul style="list-style-type: none"> Definition of Regionally Significant Wetland is extremely broad given all 'wetlands' above a nominal 800m above sea level mark automatically trigger a regional significance status and subsequent protection. A nominal altitude of 800m above sea level is not an effective gauge of ecological significance, which may be confirmed by survey or ground-truthing. 	<p>Support in part – this relief would satisfy TrustPower's concerns in relation to wetlands above 800m, providing it is amended to specifically refer to "confirming it has one or more of the regionally significant wetland values contained in Policy 10.4.1" (rather than to "confirming its ecological values against the ecological criteria detailed in Schedule 9").</p> <p>In addition, TrustPower considers it would be preferable if all wetlands containing regionally significant values (including wetlands above 800m) have been identified and already scheduled as such in the Water Plan prior to the new Plan Change 2 provisions being adopted. This would enhance certainty for plan users, and would enable the arbitrary blanket protection pertaining to wetlands above 800m to be removed from the provisions.</p>
Cardrona Alpine Resort	15	Amend	Delete 10.4.1A(c).	<ul style="list-style-type: none"> Remove provisions that relate to wetlands higher than 800m. 	Support – this relief would satisfy TrustPower's concerns in relation to wetlands above 800m.
Lake Waihola Waipori Wetlands Society Inc.	20	Amend	Amend to more clearly delineate between what is defined as aquatic, wetlands, and land.	<ul style="list-style-type: none"> Lack of delineation between aquatic values and wetland values makes the proposal slightly confusing. Aquatic and wetland areas are distinct with quite different plant communities. This will make the rules work more clearly, and give greater guidance to people. 	Support
Contact Energy Limited	30	Oppose	That the definition of a Regionally Significant Wetland (which includes all wetlands over 800m above sea level) be not approved.	<ul style="list-style-type: none"> Process classifying the wetlands as regionally significant was not robust. Wetlands above 800m should not be automatically included if these are not accurately mapped/plotted and if no values assessment has been done on them. 	Support – this relief would satisfy TrustPower's concerns in relation to wetlands above 800m.
Meridian Energy Limited	32	Amend	Amend: <i>"A Regionally Significant Wetland is: [...] (b) A wetland physically within a wetland management area listed in Schedule 9; or (c) A wetland higher than 800 metres above sea level."</i>	<ul style="list-style-type: none"> Arbitrary classification on elevation; many wetlands will not meet habitat, flora, fauna or cultural values. More restrictive management is inappropriate given values not known. 	Support – this relief would satisfy TrustPower's concerns in relation to wetlands above 800m.
Department of Conservation	42	Support	Retain with no amendments.	<ul style="list-style-type: none"> Consistent with Part 2 RMA. Gives guidance when considering activities in wetlands. Maintains flows in streams sourced from wetlands which protects habitat of indigenous threatened fish. Gives effect to the NPS Freshwater Management. 	Oppose on the basis that the relief being sought is inconsistent with TrustPower's submission.

New Zealand Railways Corporation	46	Amend	Add definition to the glossary section of the Water Plan which clarifies that those 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.	<ul style="list-style-type: none"> •No definition of Regionally Significant Wetland in the Water Plan. •Where activities occur on 'dry' areas they should be permitted and the definition should clarify this. Where activities occur on 'dry' areas they should be permitted and the definition should clarify this. Only those activities that impact on wetlands should be captured by the new controls. 	Support
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8 Policy 10.4.1B - Schedule 9

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Department of Conservation	42	Support	Retain with no amendments.	<ul style="list-style-type: none"> •Consistent with Part 2 RMA. •Gives guidance when considering activities in wetlands. •Maintains flows in streams sourced from wetlands which protects habitat of indigenous threatened fish. •Gives effect to the NPS Freshwater Management. 	Oppose on the basis that the relief being sought is inconsistent with TrustPower's submission.

Regionally Significant Wetland values

6.14 Policy 10.4.1 - Definition of Regionally Significant Wetland values

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Otago Fish & Game Council	8	Amend	Add criterion: <i>A10) Importance of this wetland within the wider network of wetlands within its catchment.</i>	•Proposed plan only considers wetlands in isolation and doesn't consider networks of wetlands as important (e.g. for river flow stability).	Oppose, as all wetlands are part of the hydrological system the proposal is not an appropriate criteria for wetlands to be classified as "regionally significant".
Federated Farmers of New Zealand	29	Support	Adopt the provision as proposed.	•Supports the incorporation of wetland values within one provision, and the addition of "significant" to value A9.	Oppose on the basis that the relief being sought is inconsistent with TrustPower's submission.
Meridian Energy Limited	32	Amend	Amend policy 10.4.1: <i>"A1 Habitat for <u>regionally</u>, nationally or internationally rare or threatened species or communities; A7 High diversity of indigenous flora and fauna; A8 Regionally significant habitat for waterfowl; and A79 Significant hydrological values including maintaining water quality or low flows, or reducing flood flows."</i>	•The new characteristics/identification criteria listed in A7 to A8 is unnecessary.	Support
Hawksbury Lagoon Inc	39	Amend	In identifying significant wetlands, ensure adequate weight is given to the pattern of wetlands in maintaining corridors and feeding sites for waterfowl.	No reason given.	Oppose as all wetlands form part of the wider hydrological system which is interconnected this is not appropriate criteria for classifying wetlands as "regionally significant".

Department of Conservation	42	Support	Retain with no amendments.	<ul style="list-style-type: none"> •Consistent with Part 2 RMA. •Gives guidance when considering activities in wetlands. •Maintains flows in streams sourced from wetlands which protects habitat of indigenous threatened fish. •Gives effect to the NPS Freshwater Management. 	Oppose on the basis that the relief being sought is inconsistent with TrustPower's submission.
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Amend: " <i>The regionally significant wetland values of Otago's wetlands that are identified in Schedule 9 are: ...</i> "	<ul style="list-style-type: none"> •Values inconsistent with case law, such as criterion for representativeness. •Significance criterion used to identify wetlands in Schedule 9 is incomplete and it's possible not all significant wetlands have been captured. 	Oppose. Council did not intend for non-scheduled wetlands to be included in the regionally significant wetland provisions and in TrustPower's view they should not be included. Wetlands may be added to Schedule 9 and awarded protection through a formal plan change process if appropriate.

Part 2: Protection of wetlands

Chapter 10 - Wetlands

5 Objective 10.3.1 - Maintain or enhance wetlands

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	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> "	•Objective fails to form a framework to protect wetlands and their margins, and set out all that is required by Part 2 RMA.	Oppose. The existing Objective is more appropriate and sets a clear goal for the management of wetlands. The Act does not provide for the outright protection of wetlands – it provides for their protection from inappropriate subdivision, use and development (Section 6(a)).

9 Policy 10.4.2 - Priority on avoiding adverse effects

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Otago Fish & Game Council	8	Support	Support for the preference of an "avoid" test where possible.	•Gives a strong signal the Regionally Significant Wetlands should be left alone.	Oppose on the basis that the relief being sought is inconsistent with TrustPower's submission.
Otago Conservation Board	27	Support	Strongly support the intention to avoid adverse effects on wetlands rather than to remedy or mitigate such effects.	•No longer acceptable to merely remedy or mitigate effects.	Oppose on the basis that the relief being sought is inconsistent with TrustPower's submission.
Meridian Energy Limited	32	Amend	Delete policy 10.4.2 and replace with: " <u>The adverse effects of activities on Regionally Significant Wetland shall be avoided where practicable and, otherwise, remedied or mitigated.</u> "	<ul style="list-style-type: none"> •Overly restrictive; fails to acknowledge remediation/mitigation may be more appropriate. •Priority to avoid doesn't reflect intent of Objective 10.3.1; objective doesn't preclude remediation and mitigation. •S 5(2)(c) RMA not a strict hierarchy. 	Support in part.
Clutha District Council	34	Amend	Delete: "Remedying or mitigating effects will be considered only where those effects cannot be avoided."	<ul style="list-style-type: none"> •The requirement to avoid adverse effects where possible is too strict and inflexible. •It is counter to the regime set up in Part 5 RMA, which treats 'avoid', 'remedy' and 'mitigate' equally, and is also contrary to the established principle that the Act contemplates that activities can have adverse effects and still be acceptable. •If provision remains it is inevitable that proposals will be opposed on the basis that 	Support

				effects can always be avoided by not doing anything.	
Department of Conservation	42	Support	Retain with no amendments.	<ul style="list-style-type: none"> •Consistent with Part 2 RMA. •Gives guidance when considering activities in wetlands. •Maintains flows in streams sourced from wetlands which protects habitat of indigenous threatened fish. •Gives effect to the NPS Freshwater Management. 	Oppose on the basis that the relief being sought is inconsistent with TrustPower's submission.
OtagoNet Joint Venture	43	Amend	Amend: "Priority will be given to the avoidance of adverse effects of activities on Regionally Significant Wetlands and values. Remedying or mitigating adverse effects will be considered only where those effects cannot be avoided. Adverse effects on Regionally Significant Wetlands and their regionally significant values should be avoided, remedied or mitigated."	<ul style="list-style-type: none"> •Primacy should not be given to avoiding adverse effects, over remedying or mitigating adverse effects. •Giving primacy to avoidance is inconsistent with sustainable management as defined in RMA and established case law. 	Support
Royal Forest and Bird Protection Society of New Zealand Inc	47	Support	Support. No change.	•Appropriately recognises preferability of avoidance of adverse effects.	Oppose on the basis that the relief being sought is inconsistent with TrustPower's submission.

153 Chapter 10 general

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Otago Fish & Game Council	8	Amend	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>	<ul style="list-style-type: none"> •Proposed plan does not address issue of wetland transition and seasonal variability. •Suggested change enables assessment of effects of activities adjacent to wetland boundary. 	Oppose. Imprecise boundaries would make management of the regionally significant wetlands extremely difficult. Requiring "no adverse effects" is inconsistent with Section 5(2) of the RMA.
Te Ao Marama Inc	16	Amend	Include preservation of wetland, lake and river margins in the proposed plan change.	<ul style="list-style-type: none"> •Proposed change does not address this (as required by s 6 RMA). •Would significantly strengthen the provisions proposed and help to achieve the purpose of RMA. •A lot of inappropriate use and development has been carried out in the margins, with significant effects on wetlands, lakes, rivers and the coast. 	Oppose. Lake and river margins are outside the scope of Plan Change 2.
Hawksbury Lagoon Inc	39	Amend	Default position on rules and policies should be a conserved wetland rather than create permitted activities (To keep faith with the objective to "avoid").	No reason given.	Oppose on the basis that the relief being sought is inconsistent with TrustPower's submission.
OtagoNet Joint Venture	43	Amend	Activities and human use values should be provided for in Plan Change 2 such that they are not unduly compromised without recognition of	•Relevant in establishing the boundaries and values ascribed to wetlands, and establishing the policy regime and the inventory.	Support

			their benefits.	<ul style="list-style-type: none"> •ORC is required to protect regionally significant infrastructure. •Would meet s 5 RMA. 	
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	<p>Insert new policy and explanation:</p> <p><u>"Policy x.x.x:</u> <u>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:</u> <u>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>	<ul style="list-style-type: none"> •Plan change doesn't allow for further significant wetlands to be identified. •Significance criterion used to identify wetlands in Schedule 9 is incomplete and it's possible not all significant wetlands have been captured. 	Oppose. ORC has undertaken the rigorous task of identifying wetlands in Otago with regionally significant values. Stakeholders and submitters have had the opportunity to comment on the scheduled wetlands and seek that additional wetlands that contain regionally significant wetland values are awarded protection.
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	<p>Insert new policy and explanation:</p> <p><u>"Unidentified wetlands will be assessed using the following ecological criteria: 1. Ecological context</u> <u>2. Representative wetlands</u> <u>3. Rarity</u> <u>4. Distinctiveness</u></p> <p><u>Explanation:</u> <u>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>	<ul style="list-style-type: none"> •Values inconsistent with case law, such as criterion for representativeness. •Note: Appendix XX Ecological Criteria can be found in full in the original submission. 	Oppose. ORC has undertaken the rigorous task of identifying wetlands in Otago with regionally significant values. Stakeholders and submitters have had the opportunity to comment on the scheduled wetlands and seek that additional wetlands that contain regionally significant wetland values are awarded protection. In the unlikely event that there are any "unidentified" wetlands, these may be added to Schedule 9 and awarded protection through a formal plan change process if appropriate.
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	<p>Insert new policy and explanation:</p> <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:</u> <u>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</u></p>	<ul style="list-style-type: none"> •Possible not all significant wetlands have been captured in Schedule 9 	Oppose. As per two above comments.

			<u>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>		
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	<p>Insert new policy and explanation: <u>"Policy x.x.x</u> <u>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:</u> <u>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>	<ul style="list-style-type: none"> •Many wetlands not scheduled, and all wetlands should be managed according to Part 2 RMA. 	<p>Oppose. The plan change clearly relates to regionally significant wetlands. Council did not intend for non-scheduled wetlands to be included in the regionally significant wetland provisions and in TrustPower's view they should not be included. Wetlands may be added to Schedule 9 and awarded protection through a formal plan change process if appropriate.</p>

Chapter 12 - Rules: Water Take, Use and Management

22 Rule 12.1.1A.1 - Take and use of surface water from any Regionally Significant Wetland

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Otago Fish & Game Council	8	Support	Support.	<ul style="list-style-type: none"> •Will help to protect wetlands into the future. 	Oppose on the basis that the relief being sought is inconsistent with TrustPower's submission.
Otago Conservation Board	27	Support	Strongly support setting the default activity status of activities that affect wetlands as 'non-complying'.	<ul style="list-style-type: none"> •Essential that all remaining wetlands receive highest level of protection. 	Oppose on the basis that the relief being sought is inconsistent with TrustPower's submission.
Federated Farmers of New Zealand	29	Amend	Amend the activity status to a restricted discretionary activity.	<ul style="list-style-type: none"> •Unnecessary, and adds needless expense and time compared to restricted discretionary. 	Support
Contact Energy Limited	30	Amend	That the non-complying activity status proposed for activities controlled by Chapter 12 be not approved and that such activities remain as discretionary activities.	<ul style="list-style-type: none"> •Non-complying status is too onerous, especially given concerns on artificial wetlands, and the lack of robustness in the process classifying the wetlands as regionally significant •Activity with an adverse effect on a wetland value may still be appropriate. •Discretionary status allows robust examination, and the possibility of declining activities. 	Support
Meridian Energy Limited	32	Amend	Amend Rule 12.1.1A.1: <u>"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 <u>directly</u> from any Regionally Significant Wetland is a <u>non-complying activity.</u>"</u>	<ul style="list-style-type: none"> •Many Regionally Significant Wetlands form part of rivers or lakes; the rule should be explicit that only water taken directly from the area identified as Regionally Significant Wetland is non-complying. 	Support in part – support the submission generally, but prefer that the non-complying status is removed from the plan.

Royal Forest and Bird Protection Society of New Zealand Inc	47	Support	Retain rule as proposed.	•Consistent with Part 2 and s 30 RMA.	Oppose, for reasons given in TrustPower's submission.
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26 Rule 12.1.2.4 - Take and use of surface water for no more than 3 days

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	<p>Amend 12.1.2.4(b):</p> <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 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."</i></p> <p>Add the following permitted rule conditions:</p> <p><i>"(a) Effects on biological diversity and ecological values; and</i></p> <p><i>(b) Effects on the natural character of wetlands and their margins."</i></p>	<ul style="list-style-type: none"> •Deletion of 'water is not taken from' alters intent of rule. •Rule doesn't cover non-assessed and non-scheduled wetlands. 	<p>Oppose in part.</p> <p>TrustPower's opposes all aspects of this submission except the inclusion of "indigenous" as this is consistent with the principles of the Act.</p> <p>TrustPower submitted that "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. TrustPower considers that the wording "the water is not taken from" may replace this wording, but not that it applies in addition as this would be grossly inefficient.</p> <p>The proposed additional permitted rule conditions do not make sense in the context of the specific Rule, and are too subjective to provide any certainty in compliance or otherwise with this rule.</p> <p>Council did not intend for non-scheduled wetlands to be included in the regionally significant wetland provisions and in TrustPower's view they should not be included.</p>

27 Rule 12.1.2.5 - Take and use of surface water general

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	<p>Amend 12.1.2.5(a):</p> <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 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."</i></p> <p>Add the following permitted rule conditions:</p> <p><i>"(a) Effects on biological diversity and ecological values; and</i></p> <p><i>(b) Effects on the natural character of wetlands and their margins."</i></p>	<ul style="list-style-type: none"> •Deletion of 'water is not taken from' alters intent of rule. •Rule doesn't cover non-assessed and non-scheduled wetlands. 	<p>Oppose in part.</p> <p>TrustPower's opposes all aspects of this submission except the inclusion of "indigenous" as this is consistent with the principles of the Act.</p> <p>The Rule is set up to be effects based; the inclusion of "the water is not taken from" is inconsistent with the effects based approach.</p> <p>The proposed additional permitted rule conditions do not make sense in the context of the specific Rule, and are too subjective to be included in any Rules.</p> <p>Council did not intend for non-scheduled wetlands to be included in the regionally significant wetland provisions and in TrustPower's view they should not be included.</p>

28 Rule 12.1.2.6 - Take and use of surface water for land drainage

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	<p>Amend 12.1.2.6(a): <i>"The water is not taken from and there is no change to the water level or hydrological function, or no damage to the indigenous flora, fauna or its habitat, in or on any Regionally Significant Wetland, or wetland that meets the significance criteria listed in Appendix XX Ecological Criteria."</i></p> <p>Add the following permitted rule conditions: <i>"(a) Effects on biological diversity and ecological values; and (b) Effects on the natural character of wetlands and their margins."</i></p>	<ul style="list-style-type: none"> •Deletion of 'water is not taken from' alters intent of rule. •Rule doesn't cover non-assessed and non-scheduled wetlands. 	<p>Oppose in part. TrustPower's opposes all aspects of this submission except the inclusion of "indigenous" as this is consistent with the principles of the Act.</p> <p>TrustPower submitted that "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. TrustPower considers that the wording "the water is not taken from" may replace this wording, but not that it applies in addition as this would be grossly inefficient.</p> <p>The proposed additional permitted rule conditions do not make sense in the context of the specific Rule, and are too subjective to be included in any Rules.</p> <p>Council did not intend for non-scheduled wetlands to be included in the regionally significant wetland provisions and in TrustPower's view they should not be included.</p>

37 Rule 12.1.4.8 - Take and use of surface water - restricted discretionary activity

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	<p>Add new discretionary matters: <i>"(a) Effects on biological diversity and ecological values; and (b) Effects on the natural character of wetlands and their margins."</i></p> <p>Amend (xvii): <i>"Any effect on any Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria."</i></p>	<ul style="list-style-type: none"> •Council responsibilities are greater than the identification of significant wetlands; need to consider adverse effects on all wetlands. •Possible not all significant wetlands have been captured in Schedule 9. •Gives effect to Part 2 RMA. 	<p>Oppose.</p> <p>Matter (xii) provides for consideration of any adverse effect on any lawful take of water, if consent is granted and Matter (xvii) provides for consideration of any effect on any Regionally Significant Wetland or any regionally significant wetland value. These considerations are more than sufficient to assess the potential adverse effects of a water take or use, and the new discretionary matters proposed would be unnecessary.</p> <p>In terms of the proposed amendment to (xvii), Council did not intend for non-scheduled wetlands to be included in the regionally significant wetland provisions and in TrustPower's view they should not be included.</p>

45 Rule 12.2.1A.1 - Take and use of groundwater from any Regionally Significant Wetland

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Otago Conservation Board	27	Support	Strongly support setting the default activity status of activities that affect wetlands as 'non-complying'.	•Essential that all remaining wetlands receive highest level of protection.	Oppose on the basis that the relief sought is inconsistent with TrustPower's submission.
Federated Farmers of New Zealand	29	Amend	Amend the activity status to a restricted discretionary activity.	•Unnecessary, and adds needless expense and time compared to restricted discretionary.	Support, on the basis that the relief sought is consistent with TrustPower's submission.
Contact Energy Limited	30	Amend	That the non-complying activity status proposed for activities controlled by Chapter 12 be not approved and that such activities remain as discretionary activities.	•Non-complying status is too onerous, especially given concerns on artificial wetlands, and the lack of robustness in the process classifying the wetlands as regionally significant.	Support, on the basis that the relief sought is consistent with TrustPower's submission.

				<ul style="list-style-type: none"> •Activity with an adverse effect on a wetland value may still be appropriate. •Discretionary status allows robust examination, and the possibility of declining activities. 	
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48 Rule 12.2.2.5 - Take and use of groundwater for no more than 3 days

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Amend 12.2.2.5(b): <i>"The water is not taken from and there is no change to the water level or hydrological function, or no damage to the indigenous flora, fauna or its habitat, in or on any Regionally Significant Wetland, or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria."</i>	<ul style="list-style-type: none"> •Deletion of 'water is not taken from' alters intent of rule. •Rule doesn't cover non-assessed and non-scheduled wetlands. 	<p>Oppose in part.</p> <p>TrustPower's opposes all aspects of this submission except the inclusion of "indigenous" as this is consistent with the principles of the Act.</p> <p>TrustPower submitted that "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. TrustPower considers that the wording "the water is not taken from" may replace this wording, but not that it applies in addition as this would be grossly inefficient.</p> <p>Council did not intend for non-scheduled wetlands to be included in the regionally significant wetland provisions and in TrustPower's view they should not be included.</p>

49 Rule 12.2.2.6 - Take and use of groundwater from Schedule 2C aquifer or within 100m of any wetland, lake or river

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Amend 12.2.2.6(a): <i>"The water is not taken from and there is no change to the water level or hydrological function, or no damage to the indigenous flora, fauna or its habitat, in or on any Regionally Significant Wetland, or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria."</i>	<ul style="list-style-type: none"> •Deletion of 'water is not taken from' alters intent of rule. •Rule doesn't cover non-assessed and non-scheduled wetlands. 	<p>Oppose in part.</p> <p>TrustPower's opposes all aspects of this submission except the inclusion of "indigenous" as this is consistent with the principles of the Act.</p> <p>TrustPower submitted that "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. TrustPower considers that the wording "the water is not taken from" may replace this wording, but not that it applies in addition as this would be grossly inefficient.</p> <p>Council did not intend for non-scheduled wetlands to be included in the regionally significant wetland provisions and in TrustPower's view they should not be included.</p>

50 Rule 12.2.2A.1 - Take and use of groundwater for community water supply - controlled activity

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Amend 12.2.2A1(g): <i>"Any effect on and Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance"</i>	<ul style="list-style-type: none"> •Council responsibilities are greater than the identification of significant wetlands; need to consider adverse effects on all wetlands. •Possible not all significant wetlands have been 	<p>Oppose.</p> <p>Council did not intend for non-scheduled wetlands to be included in the regionally significant wetland provisions and in TrustPower's view they should</p>

			<p><u>criteria listed in Appendix XX Ecological Criteria."</u></p> <p>Add new matters of control: <u>"(h) Effects on biological diversity and ecological values; and</u> <u>(i) Effects on the natural character of wetlands and their margins."</u></p>	<p>captured in Schedule 9. •Gives effect to Part 2 RMA.</p>	<p>not be included.</p> <p>The proposed additional matters of control do not make sense in the context of the specific Rule, and are too subjective to be included in any Rules.</p>
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53 Rule 12.2.3.4 - Take and use of groundwater - restricted discretionary activity

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Federated Farmers of New Zealand	29	Amend	Amend: <u>"Any adverse effect on any Regionally Significant Wetland or on any regionally significant wetland value"</u>	•Implementation uncertain; means standard farming practices may be captured.	Support
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Amend (xiii): <u>"Any effect on and Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria."</u> Add new matters of discretion: <u>"(a) Effects on biological diversity and ecological values; and</u> <u>(b) Effects on the natural character of wetlands and their margins."</u>	•Council responsibilities are greater than the identification of significant wetlands; need to consider adverse effects on all wetlands. •Possible not all significant wetlands have been captured in Schedule 9. •Gives effect to Part 2 RMA.	Oppose. Council did not intend for non-scheduled wetlands to be included in the regionally significant wetland provisions and in TrustPower's view they should not be included. The proposed additional matters of control do not make sense in the context of the specific Rule, and are too subjective to be included in any Rules.

60 Rule 12.3.1A.1 - Damming or diversion of water: Regionally Significant Wetland

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Otago Conservation Board	27	Support	Strongly support setting the default activity status of activities that affect wetlands as 'non-complying'.	•Essential that all remaining wetlands receive highest level of protection.	Oppose on the basis that the relief sought is inconsistent with TrustPower's submission.
Federated Farmers of New Zealand	29	Amend	Amend the activity status to a restricted discretionary activity.	•Unnecessary, and adds needless expense and time compared to restricted discretionary.	Support
Contact Energy Limited	30	Amend	That the non-complying activity status proposed for activities controlled by Chapter 12 be not approved and that such activities remain as discretionary activities.	•Non-complying status is too onerous, especially given concerns on artificial wetlands, and the lack of robustness in the process classifying the wetlands as regionally significant •Activity with an adverse effect on a wetland value may still be appropriate. •Discretionary status allows robust examination, and the possibility of declining activities.	Support
Meridian Energy Limited	32	Amend	Amend Rule 12.3.1A.1: <u>"Unless covered by Rules 12.3.1.1 to 12.3.1.4, and 12.3.3.1(i):</u> <u>(i) The direct damming or diversion of water from</u>	•Determination as to whether a diversion will 'affect' the water level requires subjective analysis and is not suitable for determining non-compliance.	Support

			<i>or within any Regionally Significant Wetland; or (ii) The damming or diversion of water that affects the water level of any Regionally Significant Wetland; is a non-complying activity."</i>	<ul style="list-style-type: none"> •Unclear why diversion is treated differently to (direct) take and use of surface water. Given many resource consents involve the take and diversion of water, inappropriate to treat differently. •Many Regionally Significant Wetlands form part of rivers or lakes; the rule should be explicit that only water diverted directly from/to the area identified as Regionally Significant Wetland is non-complying. •Non-complying activity overly restrictive: diversion may improve water flow enabling the enhancement of wetland values. 	
Royal Forest and Bird Protection Society of New Zealand Inc	47	Support	Retain wording as proposed.	No reason given	Oppose on the basis that the relief sought is inconsistent with TrustPower's submission.

63 Rule 12.3.2.1 - Damming or diversion of water general

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Amend 12.3.2.1(e): <i>"It is not within and 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; and"</i>	•Should be explicit that damming or diversion within a Regionally Significant Wetland is not permitted.	TrustPower submitted that "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. TrustPower considers that the wording "it is not within" may replace this wording, but not that it applies in addition as this would be grossly inefficient.
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Add new matters of discretion: <i>"(a) Effects on biological diversity and ecological values; and (b) Effects on the natural character of wetlands and their margins."</i>	•Need to sustainably manage all wetlands not just those considered significant.	Oppose. The proposed additional matters do not make sense in the context of the specific Rule, and are too subjective to be included in any Rules.

64 Rule 12.3.2.2 - Damming or diversion of water for land drainage

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Federated Farmers of New Zealand	29	Amend	Categorise the maintenance of an existing drain, including the clearing of any subsequent slumping, as a permitted activity.	<ul style="list-style-type: none"> •Land drainage has positive benefits, both locally and wider. •Unmaintained drainage systems risk flooding, erosion and discharges. •Requiring consent may deter maintenance. 	Support
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Amend 12.3.2.2(a): <i>"The water is not diverted from and 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; and"</i>	•Should be explicit that damming or diversion within a Regionally Significant Wetland is not permitted.	TrustPower submitted that "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. TrustPower considers that the wording "the water is not diverted from" may replace this wording, but not that it applies in addition as this would be grossly inefficient.
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Add new matters of discretion: <i>"(a) Effects on biological diversity and ecological values; and (b) Effects on the natural character of wetlands"</i>	•Need to sustainably manage all wetlands not just those considered significant.	Oppose. The proposed additional matters do not make sense in the context of the specific Rule, and are too subjective to be included in any Rules.

			<i>and their margins."</i>		
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65 Rule 12.3.2.3 - Damming or diversion of water for erection, placement, repair or maintenance of structure

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Add new matters of discretion: <i>"(a) Effects on biological diversity and ecological values; and (b) Effects on the natural character of wetlands and their margins."</i>	•Need to sustainably manage all wetlands not just those considered significant.	Oppose. The proposed additional matters do not make sense in the context of the specific Rule, and are too subjective to be included in any Rules.

66 Rule 12.3.3.1 - Damming or diversion of water - restricted discretionary activity

10	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Federated Farmers of New Zealand	29	Amend	Amend: <i>"Any adverse effect on any Regionally Significant Wetland or on any regionally significant wetland value"</i>	•Implementation uncertain; means standard farming practices may be captured.	Support
Contact Energy Limited	30	Support	The restricted discretionary activity status for the damming of water that has previously been carried out remains a restricted discretionary activity (Rule 12.3.3.1(i)).	No reason given.	Support
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Amend 12.3.3.1(aa): <i>"Any effect on and Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria."</i> Add new matters of discretion: <i>"(o) Effects on biological diversity and ecological values."</i>	•Matters of discretion don't address/protect non-scheduled wetlands.	Oppose. Council did not intend for non-scheduled wetlands to be included in the regionally significant wetland provisions and in TrustPower's view they should not be included. The proposed additional matter does not make sense in the context of the specific Rule, and are too subjective to be included in any Rules.

156 Chapter 12 general

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Otago Fish & Game Council	8	Support	Supports all rules within the proposed plan where the addition of the words "Regionally Significant Wetland" has been added to the previous rule which was related to lakes and rivers.	No reason given.	Oppose on the basis that the relief sought is inconsistent with TrustPower's submission.
Contact Energy Limited	30	Did not specify	The opportunity to mitigate or offset the effects of activities on Regionally Significant Wetlands be given recognition in the rules.	•Wetlands can be relocated and enhanced. •Concerned by hierarchy of avoid, followed by remedy or mitigate - not endorsed in RMA.	Support
Hawksbury Lagoon Inc	39	Amend	Default position on rules and policies should be a conserved wetland rather than create permitted activities (To keep faith with the	No reason given.	Oppose on the basis that the relief sought is inconsistent with TrustPower's submission.

			objective to "avoid").		
Department of Conservation	42	Support	For the following rules: 12.1.1A.1 - 12.1.1A.3; 12.1.2.4 - 12.1.2.6; 12.1.3.1; 12.2.1A.1; 12.2.1A.2, 12.2.2.5; 12.2.2.6; 12.2.2A.1; 12.2.3.1A; 12.2.3.2A; 12.2.3.4; 12.2.3.5; 12.2.4.1; 12.3.1A.1; 12.3.1A.2; 12.3.2.1 - 12.3.2.3; 12.3.3.1; 12.3.4.1; 12.4.1.1; 12.4.2.1; 12.5.1.1; 12.5.2.1; 12.7.1.1; 12.8.1.1; 12.8.1.5; 12.8.2.1; 12.9.1.1; 12.9.1.2; 12.10.1.1; 12.10.2.1; 12.11.2.1 - 12.11.2.3. Retain with no amendments.	<ul style="list-style-type: none"> •Consistent with Part 2 RMA. •Gives guidance when considering activities in wetlands. •Manages discharges, the damming and diversion of water in a manner that protects the habitat of indigenous fish. •Maintains groundwater and surface flows in a manner that protects the habitat of indigenous fish. •Gives effect to the NPS Freshwater Management. 	Oppose on the basis that the relief sought is inconsistent with TrustPower's submission.
OtagoNet Joint Venture	43	Amend	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.	<ul style="list-style-type: none"> •Do not enable compliance to be objectively assessed. •Application is uncertain. 	Support
OtagoNet Joint Venture	43	Amend	Amend or delete rules (or standards in rules) associated with a high degree of subjectivity.	No reason given.	Support
New Zealand Railways Corporation	46	Amend	Add to 12.3.3, 12.4.2, 12.5.2, 12.9.2 a criterion which recognises the importance of existing land transport networks, such as rail where these are currently located within regionally significant wetlands such as: <i>"Any positive effect derived from the function of the structure and/or activity in this location" or similar. NB: Amending Schedule 1 as set out as requested would largely achieve the same relief.</i>	<ul style="list-style-type: none"> •Criteria do not take into account location and importance of regionally (and nationally) important land transport networks which are, in places, incorporated within the new Regional Significant Wetland boundaries. •No balancing criteria, other than those in Part 2 RMA, which allow for the fixed location of land-based transport networks to be considered when they require replacement, or alteration along their current alignments. 	Support

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

114 Rule 13.5.1.1 - Disturbance of the bed general

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	<p>Amend (i):</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 indigenous flora, fauna or its habitat, in or on any Regional Significant Wetland, or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria"</i></p> <p>Amend 13.5.1.1(f) as follows:</p> <p><i>"...of sediment to the lake, river or wetland..."</i></p>	<ul style="list-style-type: none"> •Current words do not provide Council with necessary control on potential adverse effects of contaminant discharge. 	<p>Oppose, with the exception of the addition of "indigenous".</p> <p>Council did not intend for non-scheduled wetlands to be included in the regionally significant wetland provisions and in TrustPower's view they should not be included.</p>

119 Rule 13.5.2.1 - Extraction of alluvium - restricted discretionary activity

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	<p>Delete "or any Regionally Significant" from the introduction to the rule</p> <p>Amend (aa): <i>"Any effect on and Regionally Significant Wetland or on any regionally significant wetland value or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria."</i></p> <p>Amend (a)(ii): <i>"The natural character of any affected water body and their margins"</i></p> <p>Add new matter of discretion: <i>"(m) Any effects on biological diversity and ecological values."</i></p>	<p>•Current words do not provide Council with necessary control on potential adverse effects of contaminant discharge.</p>	<p>Oppose.</p> <p>Council did not intend for non-scheduled wetlands to be included in the regionally significant wetland provisions and in TrustPower's view they should not be included.</p> <p>In addition, the proposed new matter is already captured under (aa).</p>

120 Rule 13.5.3.2 - Alteration of Regionally Significant Wetland - discretionary activity

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Federated Farmers of New Zealand	29	Support	Adopt 13.5.3.2 as proposed.	No reason given.	Support

122 Rule 13.6.2.0 - Introduction or planting of New Zealand native plant

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Lake Waihola Waipori Wetlands Society Inc.	20	Support	Supports rule in principle.	Allows for planting of native species in wetlands without resource consent being required	Support
Federated Farmers of New Zealand	29	Support	Adopt 13.6.2.0 as proposed.	No reason given.	Support
Clutha District Council	34	Amend	<p>Either:</p> <ul style="list-style-type: none"> • Restrict native plants to wetland species which are native to the area; or • Add new condition "(d) There is no change to the water level or hydrological function, or no damage to the flora, fauna and its habitat, in or on any Regionally Significant Wetland". 	<p>•Rule allows planting of any native plant, and some native plants can be inappropriate in wetlands (e.g., non-wetland species which could be invasive or encourage succession away from wetland species, or non-local genetic stock).</p>	<p>Oppose, it is not appropriate that in planting native species such criteria is required to be assessed.</p>
Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou, and Hokonui Runanga	38	Support	<p>Supports addition:</p> <p><i>"The introduction or planting of any New Zealand native plant to any Regionally Significant Wetland, is a permitted activity providing: (e) . . ."</i></p>	<p>•May assist in the future restoration of wetlands.</p>	Support

123 Rule 13.6.3.1 - Introduction or planting of vegetation - discretionary activity

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Amend: "...or any <u>Regional Significant Wetland or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria...</u> "	•Current words do not provide Council with necessary control on potential adverse effects of contaminant discharge.	Oppose. Council did not intend for non-scheduled wetlands to be included in the regionally significant wetland provisions and in TrustPower's view they should not be included.

124 Rule 13.7.1.2 - Removal or clearance of exotic plant material

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Federated Farmers of New Zealand	29	Support	Adopt 13.7.1.2 as proposed.	No reason given.	Support
Department of Conservation	42	Amend	Amend: "(c) <u>The wetland alteration is limited to that which is necessary, the use of best practice methods, for the removal or clearance of the plant material.</u> "	•Amendment sought so that the removal or clearance of exotic plant material cannot be used as a pretext to damage Regionally Significant Wetlands or Regionally Significant Wetland Values.	Oppose, as it is unnecessary to specifically assess which techniques will be used to remove plants given that wetland alteration is already limited to that which is necessary.
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Amend: " <u>The removal or clearance...Regional Significant wetlands, is a permitted activity providing:</u> " Add the following condition: " <u>Damage to indigenous flora and habitats or indigenous fauna managed.</u> "	•Current words do not provide Council with necessary control on potential adverse effects of contaminant discharge.	Oppose. The proposed additional condition is not necessary given the Rule already limits the wetland alteration to that which is necessary.

125 Rule 13.7.2.1 - Removal of pest plants - controlled activity

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Lake Waiholo Waipori Wetlands Society Inc.	20	Amend	Amend to include; Reed Sweetgrass <i>Glyceria maxima</i> , Crack Willow <i>Salix fragilis</i> , Grey Willow <i>Salix cinerea</i> , Black Alder <i>Alnus glutinosa</i> , Red Alder <i>Alnus rubra</i> , Pine <i>Pinus radiata</i> .	•Makes consent always be granted for the removal of these species.	Support
Department of Conservation	42	Amend	Amend: " <u>Except as provided for by Rules 13.7.1.1.....</u> <u>(i) Lagarosiphon (Lagarosiphon major); or</u> <u>(ii) Eel Grass (Vallisneria spiralis); or</u> <u>(xv) Glyceria species</u> <u>(xvi) Alder (Alnus) species;</u> <u>(xvii) Crack willow;</u> <u>(xviii) Gray willow,</u> <u>from the bed of any lake or river, or from....."</u>	•The 4 species proposed for inclusion have potential to adversely effect Regionally Significant Wetlands and/or Regionally Significant Wetland Values. •Amendment is consistent with Part 2 RMA. •Amendment gives effect to NPS Freshwater Management.	Support

126 Rule 13.7.3.1 - Removal or clearance of plant material - discretionary activity

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Add the word exotic: " <u>Unless covered by Rules 13.7.1.1 to 13.7.2.1, removal or clearance of exotic plant material from any Regionally Significant Wetland, is a discretionary activity.</u> "	•Agrees may be a need for discretionary consents for some removal of exotic species from significant wetlands, but removal of indigenous vegetation should be avoided and should be non-complying.	Oppose. Discretionary activity status is appropriate for the removal of any plant material from a regionally significant wetland that is not captured by the permitted or controlled activity rules.

155 Chapter 13 general

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Otago Fish & Game Council	8	Support	Supports all rules within the proposed plan where the addition of the words "Regionally Significant Wetland" has been added to the previous rule which was related to lakes and rivers.	No reason given.	Oppose in part, for the reasons given in TrustPower's submission.
Contact Energy Limited	30	Did not specify	The opportunity to mitigate or offset the effects of activities on Regionally Significant Wetlands be given recognition in the rules.	•Wetlands can be relocated and enhanced. •Concerned by hierarchy of avoid, followed by remedy or mitigate - not endorsed in RMA.	Support
Contact Energy Limited	30	Amend	That controls on the use of the beds of wetlands are not duplicated by the Regional and District Plans.	•Queries Chapter 13 rules applying to wetlands. •Especially relevant to Central Otago District Plan.	Support
Clutha District Council	34	Support	Strongly support the addition of Regionally Significant Wetlands into existing rules controlling activities in lake and river beds.	•Addresses existing gap between Regional Council and Territorial Authority functions, which allowed significant impacts on wetlands from activities such as the erection of structures, disturbance, planting and vegetation removal.	Support in part
Transpower New Zealand Limited	37	Amend	Provide for the "use" of existing structures in Rule 13.1.1.1 by including after the words "any lake or river" the word "or any Regionally Significant Wetlands".	•It is important to clearly sanction the operation of existing lawfully established structures in or over wetlands. •Not including wetlands in this rule creates uncertainty (when they are included in other rules - e.g. 13.2, 13.3).	Support
Transpower New Zealand Limited	37	Amend	In relation to Rules 13.7.1.2, 13.7.2.1 and 13.7.3.1: Further consideration required in terms of adequate provision provided for vegetation removal around transmission lines.	•Vegetation trimming undertaken to protect lines, not included in "removal and clearance of vegetation". •Electricity (Hazards from Trees) Regulations 2003 and NES Electricity Transmission Activities 2009 are relevant to vegetation control. •Not immediate issue as wetlands generally have low growing plants.	Support
Hawksbury Lagoon Inc	39	Amend	Default position on rules and policies should be a conserved wetland rather than create permitted activities (To keep faith with the objective to "avoid").	No reason given.	Oppose, for the reasons given in TrustPower's submission on Policy 10.4.2.
Department of Conservation	42	Support	For the following rules: 13.2.1.4 - 13.2.1.8; 13.2.2.1; 13.2.3.1; 13.3.1.1; 13.3.1.2; 13.3.2.1; 13.4.1.1; 13.4.2.1; 13.5.1.1; 13.5.1.3; 13.5.1.5A;	•Consistent with Part 2 RMA. •Gives Regionally Significant Wetlands the same recognition as the region's rivers and lakes	Oppose on the basis that the relief sought is inconsistent with TrustPower's submission.

			13.5.1.6; 13.5.1.8; 13.5.2.1; 13.5.3.2; 13.6.2.0; 13.6.3.1 and 13.7.3.1. Retain with no amendments.	<ul style="list-style-type: none"> •Protects wetland flora •Enables the maintenance and restoration of regionally significant wetlands. •Gives effect to NPS Freshwater Management. 	
OtagoNet Joint Venture	43	Amend	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.	<ul style="list-style-type: none"> •Do not enable compliance to be objectively assessed. •Application is uncertain. 	Support
OtagoNet Joint Venture	43	Amend	Amend or delete rules (or standards in rules) associated with a high degree of subjectivity.	No reasons given.	Support
New Zealand Railways Corporation	46	Amend	Add to 13.2.2, 13.3.2, 13.4.2, and 13.5.2 a criterion which recognises the importance of existing land transport networks, such as rail where these are currently located within regionally significant wetlands such as: "Any positive effect derived from the function of the structure and/or activity in this location" or similar. NB: Amending Schedule 1 as set out as requested would largely achieve the same relief.	<ul style="list-style-type: none"> •Criteria do not take into account location and importance of regionally (and nationally) important land transport networks which are, in places, incorporated within the new Regional Significant Wetland boundaries. •No balancing criteria, other than those in Part 2 RMA, which allow for the fixed location of land-based transport networks to be considered when they require replacement, or alteration along their current alignments. 	Support
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Amend Rules 13.2.1.1; 13.2.1.2; 13.2.1.4; 13.2.1.5; 13.2.1.6 and 13.2.1.8: "The...bed of a lake or river, or any Regional Significant Wetland is a permitted activity, providing:" Add the following permitted activity conditions: " <u>(a) The structure is not in a Regionally Significant Wetland or any wetland that meets the significance criteria listed in Appendix XX Ecological Criteria.</u> <u>(b) Effects on biological diversity and ecological values; and</u> <u>(c) Effects on the natural character of wetlands and their margins."</u>	<ul style="list-style-type: none"> •Fences shouldn't be erected in wetlands as animals tend to congregate along them, and regionally significant wetlands shouldn't be grazed. •Digging of wetlands for pipe, line and cable placement can cause irreversible damage. •Erection of structures over wetlands can adversely affect them. 	Oppose. Council did not intend for non-scheduled wetlands to be included in the regionally significant wetland provisions and in TrustPower's view they should not be included.
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Add new non-complying rule: " <u>Removal or clearance of native plant material from any Regionally Significant Wetland, or any wetland that meets the significance criteria listed in Schedule #; and is a non-complying activity."</u>	<ul style="list-style-type: none"> •Removal of indigenous vegetation should be avoided and should be non-complying. 	Oppose. The existing discretionary activity status is appropriate for the removal of indigenous vegetation. In some cases indigenous vegetation removal would be incidental to other activities and would generate minor or less than minor effects, and such removal does not warrant non-complying activity status.

Protection general

161 Protection general

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Contact Energy Limited	30	Support	The opportunity to mitigate or offset the effects of activities on Regionally Significant Wetlands be given recognition in the objectives, policies, and rules.	<ul style="list-style-type: none"> •Wetlands can be relocated and enhanced. •Concerned by hierarchy of avoid, followed by remedy or mitigate - not endorsed in RMA. 	Support

162 Generic permitted activity condition for wetlands protection

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Federated Farmers of New Zealand	29	Amend	Delete: "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." In 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, 13.4.1.1, 13.5.1.1, 13.5.1.3, 13.5.1.8.	<ul style="list-style-type: none"> •Since other provisions control water in Regionally Significant Wetlands and wetlands are mapped, unsure of need for condition. •Concerned that implementation of rule is uncertain near mapped areas. 	Support
Meridian Energy Limited	32	Amend	Delete: "There is no change to the water level or hydrological function, or no damage to the flora, fauna or its habitats, in or on any Regionally Significant Wetland In 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, 12.5.1.1 and 13.5.1.3	<ul style="list-style-type: none"> •Condition doesn't provide certainty to enable compliance to be objectively assessed (e.g., take of water affecting hydrological function or damaging habitat requires subjective analysis and not suitable as a permitted activity). 	Support
Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou, and Hokonui Runanga	38	Support	Support the addition throughout the Plan of: "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."	<ul style="list-style-type: none"> •Note, want independent assessment to determine whether there are changes to regionally significant wetlands. •Want clarification on how an assessment would be done, who would do it, and whether the causes of these changes can be established. •Risk that cumulative effects are missed, and only marked changes are picked up. 	Oppose on the basis that the relief sought is inconsistent with TrustPower's submission.
Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou, and Hokonui Runanga	38	Amend	Add provision 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."	<ul style="list-style-type: none"> •There are now activities permitted within Regionally Significant Wetlands that may have a permanent impact. 	Oppose on the basis that the relief sought is inconsistent with TrustPower's submission.
OtagoNet Joint Venture	43	Amend	Delete permitted activity standard in Rules 13.4.1.1, 13.5.1.1 and 13.5.1.3: "There is no change in water level or hydrological function, or no damage to the flora, fauna or its habitat, in or on any Regionally Significant Wetland."	<ul style="list-style-type: none"> •Does not enable compliance to be objectively assessed. •Precludes any development in a Regionally Significant Wetland without consent. •Inconsistent with s 5(2) RMA. •Extends protection for flora and fauna beyond s 6(c) RMA. 	Support

Financial contributions

10 Financial contributions policy (Policy 10.4.2A and Ch.17)

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Federated Farmers of New Zealand	29	Oppose	Opposes in part 10.4.2A and the Introduction to Chapter 17 in part.	No reason given.	Oppose on the basis that the relief sought is inconsistent with TrustPower's submission

Contact Energy Limited	30	Amend	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.	<ul style="list-style-type: none"> •Not every effect needs to be addressed. •The policy implies a "no net loss" approach, which is not taken in RMA. 	Support
Meridian Energy Limited	32	Amend	Amend the sixth paragraph of Section 17.1: <i>"Works and services apply to remediation or mitigation activities, while financial contributions may apply to the offsetting of adverse effects that cannot be directly fully avoided, or completely remedied or, in the Council's opinion, adequately mitigated, perhaps due to the nature of activity that needs to occur within the vicinity of the Regionally Significant Wetland."</i>	<ul style="list-style-type: none"> •Explanation suggests financial contributions will be used to address residual effects that cannot be avoided, remedied or mitigated; not consistent with Policy 10.4.2A. •Given RMA is not a 'no effects' statute, 17.1 requires amendment to reflect direction provided in 10.4.2A. 	Support
Clutha District Council	34	Support	Supports the use of financial contributions to offset adverse effects	<ul style="list-style-type: none"> •Can help ensure the best environmental outcome. 	Support
Department of Conservation	42	Support	Retain policy 10.4.2A with no amendments.	<ul style="list-style-type: none"> •Consistent with Part 2 RMA. •Gives guidance when considering activities in wetlands. •Maintains flows in streams sourced from wetlands which protects habitat of indigenous threatened fish. •Gives effect to the NPS Freshwater Management. 	Support in part on the basis that the relief sought is consistent with TrustPower's submission.
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Delete policy 10.4.2A.	<ul style="list-style-type: none"> •Financial contributions inappropriate given large-scale loss or modification of wetlands, and inconsistent with Part 2 RMA and NPS Freshwater. •Assessment criteria inadequate to assess viability in any offsetting. 	Oppose on the basis that the relief sought is inconsistent with TrustPower's submission.

165 Financial contributions rules

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Meridian Energy Limited	32	Amend	Delete clause regarding the consideration of the need for a financial contribution and replace with: <i>"In circumstances where adverse effects on Regionally Significant Wetlands cannot be avoided, remedied or mitigated, whether a financial contribution is necessary and the appropriate value of any contribution."</i>	<ul style="list-style-type: none"> •Should more accurately reflect Policy 10.4.2A. •Note: Relevant to 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, 13.3.2.1 	Support
Royal Forest and Bird Protection Society of New Zealand Inc	47	Amend	Delete all provisions for financial contributions for regionally significant wetlands and values in all rules.	<ul style="list-style-type: none"> •Financial contributions inappropriate given large-scale loss or modification of wetlands, and inconsistent with Part 2 RMA and NPS 	Oppose on the basis that the relief sought is inconsistent with TrustPower's submission.

Part 3: Schedules and maps

Mapping of Schedule 9 wetlands general

199 Mapping of Schedule 9 wetlands general

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Otago Fish & Game Council	8	Amend	Place detailed aerial photograph-based maps with cadastral boundaries of wetlands overlaid alongside the topographical maps within this plan.	<ul style="list-style-type: none"> •Maps do not show level of detail needed to assess effect of changes, or to give effect to the proposed plan. •Maps in the Wetland Inventory will not be sufficient as it doesn't have legal force. 	Support
Otago Conservation Board	27	Amend	Detailed maps and their base aerial photographs should be used in the new Schedule.	<ul style="list-style-type: none"> •Wetlands are often small areas with complicated boundaries •1:50,000 maps inadequate 	Support
Contact Energy Limited	30	Support	Supports all wetlands classified as Regionally Significant being accurately plotted/mapped before inclusion in the Regional Plan.	No reason given.	Support

Schedule 10 and non-Regionally Significant Wetlands

600 Schedule 10 and non-Regionally Significant Wetlands

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Save the Otago Peninsula Inc Society	21	Oppose	Oppose the deletion of Schedule 10.	<ul style="list-style-type: none"> •Deletion of Schedule 10 would contribute to the loss and degradation of small wetlands. •Some small wetlands on the Otago Peninsula are collectively very important as habitat for wading birds - they are gradually being drained and filled. •Wetlands at the head of Papanui Inlet were once on the Wetland of Ecological and National Importance database, and are now almost non-existent. 	Oppose as TrustPower supports the simplifying and streamlining that has been undertaken by ORC.
Save the Otago Peninsula Inc Society	21	Amend	Include schedule of locally important wetlands in the Water Plan.	No reasons given.	Oppose as TrustPower supports the simplifying and streamlining that has been undertaken by ORC
Otago Conservation Board	27	Amend	Schedule 10 areas which are not going to be added into Schedule 9 should be re-evaluated and, where appropriate, given protection.	•Not including will mean fewer wetlands protected.	Oppose as TrustPower understands the Schedule 10 wetlands have already been evaluated by ORC. TrustPower supports the simplifying and streamlining that has been undertaken by ORC.
Hawksbury Lagoon Inc	39	Amend	Would like to see as many as possible of the remaining wetlands, classified as significant or not, preserved.	<ul style="list-style-type: none"> •Wetlands play important role in sustaining diverse ecology, filtering water and providing interest to our landscapes. •The extent of loss makes all remaining wetlands significant. 	Oppose as TrustPower understands the Schedule 10 wetlands have already been evaluated by ORC. TrustPower supports the simplifying and streamlining that has been undertaken by ORC.
OtagoNet Joint Venture	43	Support	Supports repeal of Schedule 10.	•Streamlines wetland provisions, conducive to people using the Water Plan.	Support

Specific Schedule 9 wetlands

284 Schedule 9 - Loch Loudon Fen Complex (#84, Map F50)

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Department of Conservation	42	Support	That the inclusion in Schedule 9, and the extent of the wetland be retained without amendment.	Consistent with Part 2 RMA, and reflects ORC's functions under s 30 RMA.	Oppose on the basis that the relief sought is inconsistent with TrustPower's submission.

285 Schedule 9 - Loch Luella Fen Complex (#85, Maps F50 & F51)

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Department of Conservation	42	Support	That the inclusion in Schedule 9, and the extent of the wetland be retained without amendment.	Consistent with Part 2 RMA, and reflects ORC's functions under s 30 RMA.	Oppose on the basis that the relief sought is inconsistent with TrustPower's submission.

367 Schedule 9 - Waipori/Waihola Wetland Complex (#167, Maps F48 & F49)

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Transpower New Zealand Limited	37	Did not specify	Review the extent of the wetland complex at the location of transmission support structures for the GOR-HWB 110kV and NMA-TMH 220kV lines, and confirm that these structures are not contained within the Waipori/Waihola Wetland Complex.	<ul style="list-style-type: none"> •From the maps looks like these are within the wetland boundary. •Don't want to get unnecessary consent to maintain/upgrade assets. Effects from such works cannot be avoided, and do not want financial contributions to be required. •Need to appropriately provide for the national grid, recognise its benefits and be in accordance with NPS Electricity Transmission. 	Support

Part 4: Methods other than Rules

Promotion, information and funding

14 Policy 10.4.6 - Promotion of wetlands

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Department of Conservation	42	Support	Retain with no amendments, except amend "(e): <i>Providing information on wetlands and their values ecosystem services.</i> "	<ul style="list-style-type: none"> •Consistent with Part 2 RMA. •Gives guidance when considering activities in wetlands. •Maintains flows in streams sourced from wetlands which protects habitat of indigenous threatened fish. •Gives effect to the NPS Freshwater Management. •Monitoring of wetland condition is essential to ensure ORC is fulfilling its functions under section 30(1)(c)(iia) RMA. •Requests that the policy be amended to clarify the values of and services provided by wetlands. 	Oppose on the basis that the relief sought is inconsistent with TrustPower's submission.

Wetland values information and Wetland Inventory

151 Wetland Inventory

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Waitaki District Council	14	Support	Supports providing information in a non-regulatory inventory of wetlands.	<ul style="list-style-type: none"> •Allows the inventory to be more extensive, regularly updated, and freely accessible to all. •Inventory information will be useful to the Waitaki DC's Ecological Study. 	Oppose
Federated Farmers of New Zealand	29	Amend	Include only those values and wetlands already identified within the proposed plan to any non-regulatory inventory. Alternatively ensure that any changes or updating of any wetland inventory only occur in direct consultation with landowners concerned and that Council introduces a policy and method that provides for a process of consultation with the affected landowner(s).	<ul style="list-style-type: none"> •Values could be changed without plan change process and public consultation process. •Affected farmers should be able to submit on inventory contents, and appeal to Environment Court if necessary. •Concerned that inventory would be counterproductive to working positively unless landowners involved, and that ability to easily change inventory brings uncertainty to landowners. 	Support in part
OtagoNet Joint Venture	43	Amend	Give due consideration to existing and consented activities and infrastructure and any associated human use in establishing the non-regulatory inventory for Regionally Significant Wetlands. This may involve identifying activities and human use values within or surrounding scheduled Regionally Significant Wetlands.	<ul style="list-style-type: none"> •Enables protection of physical resources in a way which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety pursuant to s 5 RMA 	Support

400 Schedule 9 - Wetlands values in Schedule 9

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
River-Estuary Care: Waikouaiti-Karitane	13	Oppose	Certain sections of the Consultation Draft should be included in the final proposal, e.g. listing of the specific nature and values in each of the designated wetlands.	No reason given.	Support
Otago Conservation Board	27	Oppose	Information on wetland values should be retained and included in the new Schedule to be used for ongoing planning and protection.	•Planning decisions and protection improved by having ready access to values information.	Support
Contact Energy Limited	30	Oppose	Opposes the removal of all descriptive information on each listed wetland, and the development of a separate non-regulatory inventory.	•Removing values is ultra vires - allows non-public, non-contestable process to assign values to a wetland, removes certainty for plan users, and is not just - especially as these values trigger non-complying category.	Support
Hawksbury Lagoon Inc	39	Amend	Ensure there is an explicit requirement in the plan to keep wetland values up to date to use when considering applications for activities.	No reason given.	Support
OtagoNet Joint Venture	43	Amend	Include regionally significant wetland values ascribed to each Regionally Significant Wetland in Schedule 9.	<ul style="list-style-type: none"> •There are likely to be issues in applying proposed provisions if values information is not listed in the Water Plan. •Any change to the regionally significant wetland values identified for a Regionally Significant Wetland should require a formal plan change. •General information can go in the non-regulatory inventory. •The non-regulatory inventory which is to contain regionally significant wetland values for scheduled Regionally Significant Wetlands should have been available to stakeholders and the public at least at the time Plan Change 2 was publicly notified. •For consideration in submission. •Method of assessing and mapping individual wetlands also has not been made available. •Lack of transparency is a significant shortcoming. 	Support

Part 5: General

Miscellaneous

150 RMA streamlining and simplifying

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Save the Otago Peninsula Inc Society	21	Oppose	Opposes the deletion of 10.2.3	No reason given	Oppose
Gregory Kerr	35	Amend	Chapter 10's Introduction, Issues and Anticipated Environmental Results sections should be reinstated.	•Nationally 10% of wetlands remaining, with less than half protected.	Oppose as TrustPower supports the simplifying and streamlining that has been undertaken by ORC.
Te Runanga o Moeraki, Kati Huirapa Runaka ki Puketeraki, Te Runanga o Otakou, and Hokonui Runanga	38	Support	Support the intent of " <i>making provisions easier to read and understand</i> ", provided that important details are not lost through doing this.	No reason given.	Support
Royal Forest and Bird Protection Society of New Zealand Inc	47	Oppose	Retain issues, Explanations, Principle Reasons, Anticipated Results, and cross references.	•Removal doesn't make Plan easier to understand. •These assist decision-makers individuals better understand the Plan, educates, and helps understand whether consents are required.	Oppose as TrustPower supports the simplifying and streamlining that has been undertaken by ORC.

154 Plan general

SUBMITTER NAME	SUB NUMBER	POSITION	DECISION REQUESTED	REASON FOR DECISION REQUESTED	TRUSTPOWER'S FURTHER SUBMISSION
Contact Energy Limited	30	Amend	That recognition be given to the fact that Regionally Significant Wetlands can be an outcome of legitimate resource development such as hydro power generation.	•Concerned that wetland origin (natural or man made) has not been appropriately considered in classifying wetlands, and in writing provisions. •Plan change does not make allowance for the creation of new wetlands	Support
Meridian Energy Limited	32	Amend	Ensure there is an enabling policy framework for renewable energy production when planning documents are being prepared and determined.	•Electricity is vital to everyday life •Reliability of supply is critical to economic growth and social well-being.	Support

**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

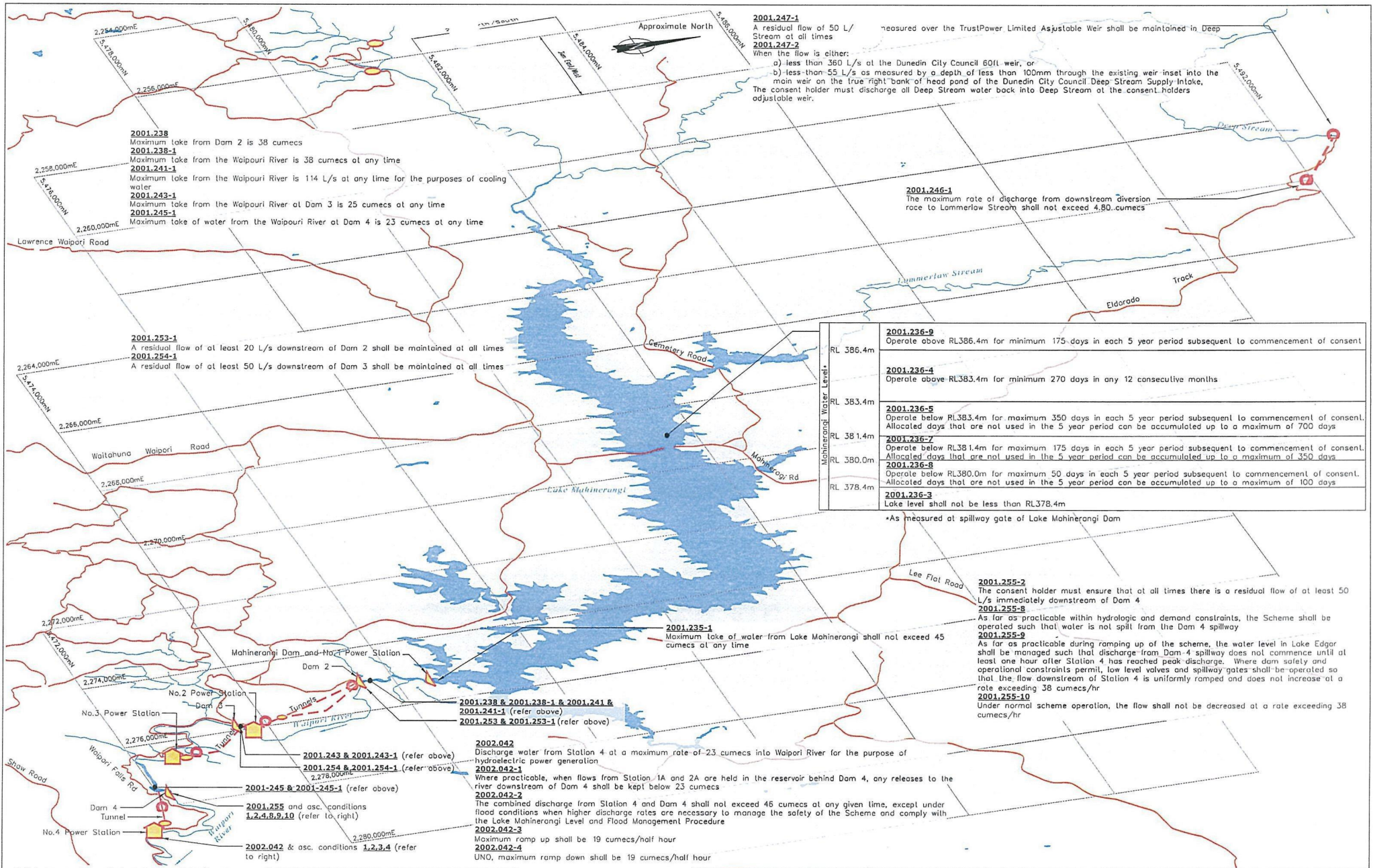
Address for service: TrustPower Limited
Private Bag 12023
Tauranga
Attn: Laura Marra

Telephone: (07) 574 4888 ext 4304

Facsimile: (07) 574 4877

APPENDIX A

Waipori Schematic



2001.247-1
A residual flow of 50 L/ Stream at all times
2001.247-2
When the flow is either:
a) less than 360 L/s of the Dunedin City Council 60L 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
2001.243-1
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

2001.235-1
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 Waipouri 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

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 spill from the Dam 4 spillway
2001.255-9
As far as practicable during ramping up of the scheme, the water level in Lake Edgar 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

Grid in terms of New Zealand Map Grid (NZMG) and Geodetic Datum NZD049. Crown Copyright reserved.

LEGEND

- Road
- Stream or river
- Lake



 Tonkin & Taylor Environmental & Engineering Consultants ■ Auckland <input type="checkbox"/> Hamilton <input type="checkbox"/> Nelson <input type="checkbox"/> Wellington <input type="checkbox"/> Christchurch <input type="checkbox"/> Whangarei	DRAWN CRR/Jan,07
	DRAFTING CHECKED
	APPROVED
	CADFILE: W4051-Waipori-Schematic.dwg
SCALES (AT A3 SIZE) NTS	PROJECT No. 24061

TrustPower Ltd
Resource Consent Compliance Key Figures
Waipouri 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		
10.3 Objective 10.3.1 Otago's wetlands and their values and services will be maintained or enhanced for present and future generations.	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.	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.
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.	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.	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. 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. 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 .
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.	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> .	TrustPower opposes this Policy. 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. 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>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 "<i>read conjunctively with equal importance, even if they appear to follow a continuum.</i>" 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, <u>creation—and reinstatement</u> 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><u>(d) Supporting the reinstatement of wetlands that have been drained or the creation of new wetlands where appropriate.</u></p> <p><u>(de) Initiating or undertaking works in consultation with local communities or</u></p> <p><u>(ef) Providing general information on wetlands in a non-regulatory inventory and identifying Regionally Significant Wetland's their-values in Schedule 9 to the Water Plan.</u></p> <p><u>(g) 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 <i>non-complying</i> 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. ** 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 non-complying 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)**: (i) The diversion of water from or within any Regionally Significant Wetland, or (ii) The damming or diversion of water that affects the water level of any Regionally Significant Wetland, 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: (i) The diversion of water from or within any Regionally Significant Wetland, or (ii) The damming or diversion of water that affects the water level of any Regionally Significant Wetland, 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. 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: (a) Any adverse effects of the activity on: (i) Any natural and human use value identified in Schedule 1 for any affected water body; (ii) The natural character of any affected water body (iii) Any amenity value supported by any affected water body; and (iv) Any heritage value associated with any affected water body; and (b) Flow and sediment processes; and (c) Any adverse effect on a defence against water; and (d) Any adverse effect on existing public access; and (e) The method of construction; and (f) The duration of the resource consent; and (g) The information and monitoring requirements; and (h) Any existing lawful activity associated with any affected waterbody; and (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. 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: (a) Any adverse effects of the activity on: ... (k) A financial contribution if the structure is a dam, or an activity that adversely affects any Type B wetland value. 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; 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. 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; 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. Whether,</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> <p>(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</p> <p>(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</p> <p>(iii) The maintenance or reinstatement of a water intake, in order to enable the exercise of a lawful take of water,</p> <p>is a permitted activity, providing:</p> <p>(a) Except in the case of the demolition or removal of a structure, the structure is lawfully established; and</p> <p>(b) Except in the case of (i), there is no increase in the scale of the existing structure; and</p> <p>(c) The bed or wetland disturbance is limited to the extent necessary to undertake the work; and</p> <p>(d) The bed or wetland disturbance does not cause any flooding or erosion; and</p> <p>(e) The time necessary to carry out and complete the whole of the work does not exceed 10 consecutive hours in duration; and</p> <p>(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</p> <p>(g) No lawful take of water is adversely affected as a result of the bed or wetland disturbance; and</p> <p>(h) The site is left tidy following completion of the activity; and</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>*Rules 13.2.1.5 and 13.2.1.6 relate to the erection or placement of a maimal 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> <p>(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</p> <p>(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</p> <p>(iii) The maintenance or reinstatement of a water intake, in order to enable the exercise of a lawful take of water,</p> <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> <p>(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>	<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> <p>(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>	<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>		<p>TrustPower supports this Rule.</p>
<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>		<p>TrustPower supports this Rule.</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>(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>	<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>and</p> <ul style="list-style-type: none"> (aa) Any effect on any Regionally Significant Wetland or on any regionally significant wetland value; and (b) Any financial contribution for regionally significant wetland values or Regionally Significant Wetlands that are adversely affected; (c) Any adverse effect on a defence against water; and (d) The quantity of alluvium to be extracted, and the location and the method of removal; and (e) Any adverse effect on existing public access; and (f) The duration of the resource consent; and (g) The information and monitoring requirements; and (h) Any existing lawful activity associated with any affected water body; and (i) Any bond; and (j) The review of conditions of the resource consent. <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 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 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> <ul style="list-style-type: none"> (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 (b) The introduction or planting does not cause any flooding or erosion; and (c) The wetland alteration is limited to that which is necessary for the introduction or planting of the plant material. 		TrustPower supports these Rules.
<p>13.7 The removal of vegetation 13.7.1 Permitted activities: No resource consent required 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> <ul style="list-style-type: none"> (a) The plant is not Lagarosiphon (<i>Lagarosiphon major</i>) in Lake Wanaka or Lake Dunstan; and (b) All reasonable steps are taken to minimise the release of sediment to the wetland during the removal or clearance; and (c) The wetland alteration is limited to that which is necessary for the removal or clearance of the plant material. 		
<p>13.7.2 Controlled Activities: Resource consent required but always granted 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> <ul style="list-style-type: none"> (i) Lagarosiphon <i>Lagarosiphon major</i>; or 		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> <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</u></p> <p><u>c. An assessment of the effects of the activity on any regionally significant wetland value.</u></p>	<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>

Annexure B

A copy of the Respondent's decision

Proposed Plan Change 2 (Regionally Significant Wetlands)

to the Regional Plan: Water for Otago

Decisions of Council

Otago Regional Council resolved to adopt the recommendations of the Hearing Committee on Proposed Plan Change 2 (Regionally Significant Wetlands) at its meeting on 2 May 2012, as follows:

That Council:

- 1. Adopt the recommendations of the Hearing Committee on Proposed Plan Change 2 (Regionally Significant Wetlands) as its decision;*
- 2. Publicly notify its decisions on Proposed Plan Change 2 (Regionally Significant Wetlands) on Saturday 12 May 2012; and*
- 3. Notify submitters of its decisions.*

All references to the recommendations of the Hearing Committee must now be read as being the decisions of Council in the following report.

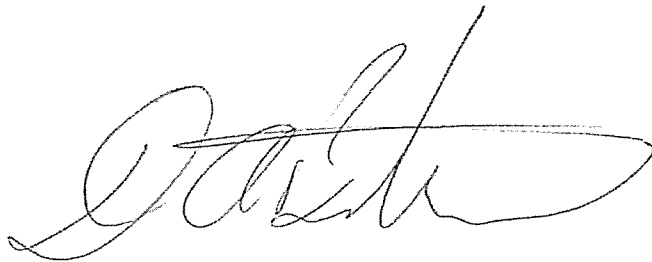
This report presents the recommendations of the Hearing Committee to the Otago Regional Council on submissions and further submissions to Proposed Plan Change 2 (Regionally Significant Wetlands) to the Regional Plan: Water for Otago.

Hearings Committee:

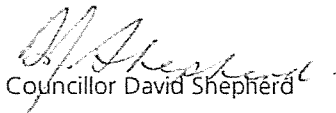


Councillor Michael Deaker

Chairperson



Councillor Duncan Butcher



Councillor David Shepherd

Abbreviations

Council	Otago Regional Council
GIS	Geographical Information System
Inventory	Boggy Treasures, Otago's Wetland Inventory
FENZ	Freshwater Ecosystems of New Zealand, geo-database
mASL	Metres above sea level
MHWS	Mean High Water Springs
Plan	Regional Plan: Water for Otago
Proposed plan change / plan change 2	Proposed Plan Change 2 (Regionally Significant Wetlands) to the Regional Plan: Water for Otago
RSW	Regionally Significant Wetlands
RMA	Resource Management Act 1991
Section 32 report	The report assessing alternatives, benefits and costs for proposed plan change 2 to the Water Plan as required by Section 32 of the RMA
Note: use of section/Section:	
section	A reference to another section in this report. A reference to a section of the Water Plan.
Section	A Section of the RMA.

This report shows our recommended changes to the text of the proposed plan change as notified, with double ~~strikethrough~~ and underline. Appendix 1 provides a full copy of the proposed plan change, incorporating our recommendations.

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Introduction

Plan Change 2 (Regionally Significant Wetlands) to the Regional Plan: Water for Otago, builds on existing provisions for Regionally Significant Wetlands by:

- Identifying additional wetlands that are regionally significant
- Strengthening protection for Regionally Significant Wetlands
- Making provisions easier to read and understand
- Providing specific wetland information in separate documents.

Plan Change 2 was publicly notified in the Otago Daily Times on Saturday 2 July 2011 and submissions closed on Friday 29 July 2011. A total of 49 submissions were received (2 of which were received after the formal submission period and accepted by the Hearing Committee).

The *Summary of Decisions Requested*, which enabled further submissions, was notified on Saturday 10 September 2011, with further submissions closing on Friday 23 September 2011. There were 9 further submissions received.

The *Officer's Report on Decisions Requested* which evaluated decisions requested by submitters and further submitters and made recommendations to the Hearing Committee, was released on Monday 5 December 2011. An *Addendum to Chapter 3: Schedules and Maps of the Officer's Report on Decisions Requested* was released on Friday 17 February 2012.

Submissions on the proposed policy framework and the rules were heard from Tuesday 13 December to Thursday 15 December 2011, while submissions relating to the mapping and scheduling of specific wetlands were heard on Tuesday 1 March 2012. A total of 24 submitters presented evidence to the Hearing Committee.

Overview of recommended amendments

As a result of the submission and hearing process, our recommendation to the Otago Regional Council is to amend Plan Change 2. We recommend the following key amendments are made to Plan Change 2:

Greater regard for human use values should be given by.

- Including a new objective that specifically addresses RSWs;
- Redrafting the policy on avoiding adverse effects to give better guidance for consenting;
- Giving better recognition for dams and diversions that existed at the time the plan change was notified; and
- Including a new rule for maintenance of existing drains in RSWs.

Amendments to proposed new Schedule 9 and the Maps of the proposed new F-series of the Water Plan by:

- Adding Tavora Wetland to Schedule 9
- Removing Trig Q Ephemeral Pool from Schedule 9
- Making adjustments to the mapping of nine other RSWs

The full text of Proposed Plan Change 2 (RSWs), modified in light of our recommendations is enclosed in Appendix 1.

Withdrawal of part Proposed Plan Change 2

Proposed Plan Change 6A (Water Quality) to the Regional Plan: Water for Otago, which proposes changes to the discharge rules, was notified on 31 March 2012. As a result of that Plan Change, the following rules were withdrawn from Plan Change 2 in order to avoid confusion between the two plan changes:

- Rule 12.5.1.1 Discharge of drainage water from any drain
- Rule 12.5.2.1 Discharge of drainage water – restricted discretionary activity
- Rule 12.8.1.1 Discharge of animal dip material
- Rule 12.8.1.2 Discharge of contaminants collected in animal waste collection system in Zone A of Lower Waitaki Plains Groundwater Protection Zone
- Rule 12.8.1.3 Discharge of contaminants collected in animal waste collection system not in Zone A of a Groundwater Protection Zone
- Rule 12.8.2.1 Discharge of contaminants collected in animal waste collection system in Zone A Groundwater Protection Zones on Maps C10-C12 and C15
- Rule 12.9.1.1 Discharge of water associated with down-hole pump testing
- Rule 12.9.1.2 Discharge of contaminants associated with drilling
- Rule 12.9.2.1 Discharge of water associated with down-hole pump testing or drilling – restricted discretionary activity
- Rule 12.10.1.1 Discharge of any contaminant or water from a vessel
- Rule 12.10.2.1 Discharge of any contaminant or water from a vessel or from maintenance of vessel - restricted discretionary activity
- Rule 12.11.2.3 Discharge of any other water
- Rule 13.2.1.7 The erection or placement of bridge, boardwalk or culvert
- Rule 13.5.1.8 Disturbance by livestock

We have not considered submissions on these rules, as these rules are no longer in the proposed plan change.

Chapter 1: Recommendations on Regionally Significant Wetlands and values

The focus of Chapter 1 is Otago's Regionally Significant Wetland (RSW) values, which are at the core of the proposed plan change. It discusses RSW values, the wetlands which contain at least one RSW value, and where information is held on these values.

1.1. Regionally Significant Wetland values

Policies 10.4.1 and 10.4.3, Glossary, Inventory

Plan Change 2 reference: R006 (page 8), R011 (pages 10-11), R140 (page 119), R151 (Wetland Inventory)

Summary of Decisions Requested: pages 55-57, pages 138-139

Operative Policy 10.4.1 identifies six "Type A" values of Otago's wetlands, which are significant and irreplaceable, and likely to be lost by wetland modification. Operative Policy 10.4.3 identifies three "Type B" values, which are significant because of the contribution they make to the habitat, natural character and hydrological value of the region's water resources. Wetlands with "Type A" and "Type B" values are listed in Schedule 9.

Plan Change 2 proposes to consolidate all RSW values into a single suite under Policy 10.4.1.

We considered the submissions and recommend clarification of the policy on RSW values, as follows:

a) Amend Policy 10.4.1 as follows:

- | | |
|--------|---|
| 10.4.1 | <p>To identify the following Type A The <u>Otago's regionally significant wetland values of Otago's wetlands are in Schedule 9:</u></p> <ul style="list-style-type: none">(a) <u>A1:</u> Habitat for nationally or internationally rare or threatened species or communities;(b) <u>A2:</u> Critical habitat for the life cycles of indigenous fauna which are dependent on wetlands;(c) <u>A3:</u> High diversity of <u>wetland</u> habitat types;(d) <u>A4:</u> Wetland with a h <u>High degree of <u>wetland</u> naturalness;</u>(e) <u>A5:</u> Wetland scarce in Otago in terms of its ecological or physical character; and(f) <u>A6:</u> Wetland which is highly valued by Kai Tahu for <u>cultural and spiritual beliefs, values and uses, including waahi taoka and mahika kai</u> or other waahi taoka;<u>A7:</u> High diversity of indigenous <u>wetland</u> flora and fauna;<u>A8:</u> Regionally significant habitat for <u>indigenous</u> waterfowl; and<u>A9:</u> Significant hydrological values including maintaining water quality or low flows, or reducing flood flows. |
|--------|---|

b) Delete Policy 10.4.3 as proposed.

10.4.3 ~~To identify the following Type B values of Otago's wetlands in Schedule 9:~~

- ~~(a) Wetland with high diversity of indigenous flora and fauna;~~
- ~~(b) Wetland which is regionally significant habitat for waterfowl; and~~
- ~~(c) Wetland which has hydrological values including maintaining water quality or low flows, or reducing flood flows.~~

Reasons for recommendation:

- Extending value A1 to include regional rarity is not appropriate as this is not well-documented. Additionally, the absence of some species from a region may not be of concern, and could result in some wetlands receiving undue protection.
- Widening value A6 acknowledges that Kai Tahu may highly value wetlands for more than just mahika kai or waahi taoka. The recommended amendments to Policy 10.4.2 (discussed under section 2.2 - Priority on avoiding adverse effects) and the proposed rules will further ensure that value A6 is considered for most resource consents for activities relating to water or the beds of lakes, rivers and Regionally Significant Wetland.
- Amending value A8 to make reference to habitat of indigenous waterfowl only is appropriate as there is no requirement under the RMA to specifically protect game bird habitat. The provisions for indigenous waterfowl habitat will also provide for game birds, because typically sites that provide habitat for a significant range of indigenous waterfowl tend to be used by introduced species, both game birds and others. Waterfowl are also recognised among the natural and human use values listed in Schedule 1A of the Plan.
- It is appropriate to retain all the values in Policy 10.4.1, despite some overlap between them, as none of them are fully duplicated by the other values.
- Geographically clustered wetlands are often connected by water bodies that moderate the effects of habitat fragmentation and act as vital corridors for species movement. This plan change addresses Regionally Significant Wetlands, and it is inappropriate to extend the same protection to connection areas which do not have Regionally Significant Wetland value. An individual wetland's importance within a wider network of wetlands could be considered under values A1, A2, and A8, which discuss habitat. Additionally, other provisions in the Plan and the Regional Plan: Coast for Otago help safeguard connections between wetlands and bordering ecosystems. (See also section 3.1 – Schedule 9: Schedule of identified Regionally Significant Wetlands, for specific situations)
- The introduction to Schedule 9 states that scheduled wetlands contain one or more RSW value, so there is no need to include this concept within this policy.
- Including a new value on "representative wetlands" is not considered necessary. The existing values were established through a community process which has, in time, resulted in a system that has identified and protected most if not all of Otago's important wetlands. Additionally, there is too much uncertainty around how representativeness could best be defined to fit into Otago's plan. It is noted that representativeness may be related to a wetland's pre-1840 condition, based on the recent case Friends of Shearer Swamp et al V West Coast Regional Council Dec [2010] NZEnvC 345.
- Incorporating the values listed in Policy 10.4.3 into policy 10.4.1 provides a clear overview of the RSW's values. Further editing of Policy 10.4.1 makes the whole policy easier to read.

- Reference to Policy 10.4.1 in the Glossary will assist use of the plan.

1.2. What is a Regionally Significant Wetland?

Policies 10.4.1A and 10.4.1B, Glossary

Plan Change 2 reference: R007 and R008 (page 9), R139 (page 119)

Summary of Decisions Requested: pages 50–54

Policy 10.4.1A defines what makes a wetland regionally significant. Policy 10.4.1B states that wetlands which have one or more RSW values are listed in Schedule 9 and mapped in the Plan.

We considered the submissions and recommend clarification of the policies on RSWs and the introduction to Schedule 9, as follows::

- a) Amend Policy 10.4.1A and delete Policy 10.4.1B as follows :

10.4.1A A Regionally Significant Wetland is any wetland that is:

- (a) A wetland identified Listed in Schedule 9 and mapped in Maps F1-F68 (that is not a wetland management area); or
- (b) A wetland physically wWithin a wetland management area listed in Schedule 9 and mapped in Maps F1-F68; or
- (c) A wetland hHigher than 800 metres above sea level.

- b) Delete Policy 10.4.1B as follows:

~~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.~~

- c) Amend the title and introduction to Schedule 9 (as also recommended in section 3.1 – Schedule 9: Schedule of identified Regionally Significant Wetlands) as follows:

Schedule 9: Schedule of identified Regionally Ssignificant Wwetlands and Wetland Management Areas

This schedule ~~identifies~~ lists Otago's identified Regionally Ssignificant Wwetlands and Wetland Management Areas in conjunction with Maps F1–F60. The schedule identifies the Type A and Type B values for each wetland. An identified Regionally Significant Wetland or Wetland Management Area is one that has been mapped in Maps F1-F68 and contains one or more Regionally Significant Wetland values. (see Chapter 10). Schedule 9 is not exhaustive.

Reasons for recommendation:

- Intermittently wet areas have been included in the mapped extents of RSWs where they are part of a wetland which has a RSW value. In a limited number of instances permanently dry areas, such as some railway corridors, roads, and raised building platforms for networks infrastructure, have been included in the mapped extents of RSWs for practical reasons. In such situations it is not necessary to explicitly exclude permanently dry areas from the definition of a RSW as the proposed rules and policies provide for existing lawful uses (see Chapter 2).

- Wetlands higher than 800m ASL have regional significance due to their inherent high degree of naturalness (value A4) and the hydrological services they provide either individually or cumulatively (value A9). Therefore a precautionary approach to the management of these wetlands is appropriate, through protection of all wetlands higher than 800m ASL.
- Merging policies 10.4.1A and 10.4.1B results in a clear explanation of what a RSW is and where they are mapped. Although the resulting policy does read as a definition, it is considered integral to the policy and rule framework and it is appropriate that it remain a policy rather than a footnote or explanatory note.
- Reference to Policy 10.4.1A in the Glossary will assist use of the plan.
- The introduction to Schedule 9 appropriately retains the concept that the wetlands listed in the Schedule contain one or more RSW value.
- Due to practical mapping constraints some wetland areas have been mapped as “Wetland Management Areas”; including wetlands and the permanently dry areas of land that surround them. The recommended amendments to introduction to Schedule 9 and Policy 10.4.1A provide adequate guidance on Wetland Management Areas. Therefore, there is no benefit in having a separate glossary entry for Wetland Management Areas.
- Incorporating a pronounced delineation between aquatic and wetland areas would not recognise the dynamic hydrology and strong interdependencies between these environments.
- Changes to the Introduction to Schedule 9 improve its clarity.

1.3. Wetland values information

Policies 10.4.1, 10.4.1B and 10.4.6, Schedule 9, Inventory

Plan Change 2 reference: R006 (page 8-9), R008 (page 9), R014 (pages 12-13), R140 (page 119), R151 (Inventory) and R400 (pages 90-112)

Summary of Decisions Requested: pages 53-57, pages 135-136, pages 138-140

The operative Plan lists RSWs and identified Type A and Type B values in Schedule 9. Plan Change 2 proposes that information about specific RSW values is deleted from the Plan and held instead in a separate, non-regulatory, on-line Inventory of wetlands (*Boggy Treasures, Otago's Wetland Inventory*). The Inventory will be freely accessible by all, and can be updated at any time without the formality of a plan change process.

We considered the submissions and recommend the following:

- a) Delete the RSW values from Schedule 9, as proposed, and place that information in a non-regulatory, on-line Inventory.

Reasons for recommendation:

- The protection of wetlands through the operative Plan relies on having accurate RSW value information in Schedule 9. Information on RSWs and values in the operative Schedule 9 is known to be out-of-date, and can only be updated by plan change.
- The plan change no longer restricts the list of values to those identified specifically for that value in Schedule 9. The rules proposed under plan change 2 recognise any RSW value that may exist for that wetland, not just those listed in Schedule 9.

- An on-line Inventory, which is not part of the Plan, can be updated quickly and without the formality of a plan change.
- The Inventory is not limited to RSWs listed in Schedule 9, and can hold information on any Otago wetland, including those worth assessing for future inclusion in Schedule 9.
- Values information held in the Inventory can be tested through the consenting process.

Chapter 2: Recommendations on the protection of wetlands – objectives, policies and rules

Chapter 2 addresses the proposed objective for wetlands, and the policies and rules that provide protection of RSWs and RSW values. It covers protections over a wide range of activities, from the take and use of water, to discharges and land uses.

This chapter is generally arranged in the same order as provisions appear in the Plan. However submissions were received on topics that cut across several areas in the Plan. Drainage and drain maintenance is addressed in sections 2.4, 2.6 and 2.9, while established activities and human uses are addressed in sections 2.2, and 2.6. General permissions, controls and discretions (2.3), and further wetland protection (2.11) are addressed in their own sections.

2.1 Objectives for wetlands

Objective 10.3.1, Glossary

Plan Change 2 reference: R005 (page 8), R158 (page 119)

Summary of Decisions Requested: pages 58-59, page 142

Objective 10.3.1 provides for the maintenance or enhancement of Otago's wetlands, and their values and services.

We considered the submissions and recommend clarification of Objective 10.3.1 and inclusion of a new Objective 10.3.2 that specifically addresses RSWs, as follows:

a) Amend Objective 10.3.1 as follows:

10.3.1	<u>Otago's wetlands, and their individual and collective values and services will be maintained or enhanced for present and future generations. To maintain or enhance the following values of Otago's remaining wetlands:</u> (a) Habitat for flora and fauna; (b) Natural character; (c) Hydrological values; and (d) Kai Tahu cultural and spiritual beliefs, values and uses.
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b) Add new Objective 10.3.2:

<u>10.3.2 Otago's Regionally Significant Wetlands and their values are recognised and sustained.</u>
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Reasons for recommendation:

- It is appropriate for Objective 10.3.1 to address all wetlands and not just RSWs, as the RMA promotes the protection of all wetlands.
- The use of the broad concepts of "values" and "services" in 10.3.1 is effective in promoting all of Otago's wetlands. Objective 10.3.1 or the new Objective 10.3.2 both take an inclusive approach and address all the values associated with the region's values. Specifying values, (e.g. Kai Tahu's association with ancestral waters and wetlands), or identifying certain services risks the omission or prioritisation of one value or service over another.

- The collective values of non-significant wetlands should be explicitly recognised.
- Allowing “maintain *or* enhance wetlands” as opposed to “maintain *and* enhance” allows appropriate wetland management.
- New objective 10.3.2 is needed to set up the policy framework dealing specifically with Regionally Significant Wetlands as Issues 10.2.1 and 10.2.2 are being deleted to simplify the Plan.

2.2 Priority on avoiding adverse effects

Policy 10.4.2

Plan Change 2 reference: R007 and R009 (page 9), R144 (General opposition), R153 (pages 5-14), R155 (pages 57-71), R156 (pages 15-55), R161 (General wetland protection)

Summary of Decisions Requested: pages 50-53, pages 59-65, pages 87-91, pages 103-111, pages 143-144.

Policy 10.4.2 proposes giving priority to avoiding adverse effects on RSWs and values, over remedying or mitigating the effects. This is similar to the operative Plan provision.

We considered the submissions and recommend the policy is redrafted, as follows:

a) Amend Policy 10.4.2 as follows:

10.4.2 ~~To Priority will be given to the avoidance the of adverse effects of activities on the Type A Regionally Significant Wetlands values of any wetland, and values. Remedying or mitigating adverse effects will be considered only where those effects cannot be avoided.~~

Avoid the adverse effects of an activity on a Regionally Significant Wetland or a regionally significant wetland value, while allowing remediation or mitigation of an adverse effect only when:

a) The adverse effect cannot be avoided, and

b) The activity:

- i. Is lawfully existing; or
- ii. Is nationally important; and
- iii. Has the purpose of maintaining or enhancing a Regionally Significant Wetland or a regionally significant wetland value.

Reasons for recommendation:

- The redrafted policy gives better guidance for decision-making.
- Avoiding, remedying, or mitigating are options to manage adverse effects, as set out in Section 5 of the RMA. The ORC can choose to give priority to avoiding effects on RSWs, due to their importance and vulnerability, rather than remedying or mitigating. Wetlands are of national importance therefore adverse effects should be avoided. The avoidance of adverse effects should relate to RSW values rather than any wetland values.
- It is appropriate to give regard to existing human uses when consenting an activity affecting a RSW or RSW value. There may be substantial investment in infrastructure, and also the existing activity is likely to be in harmony with the wetland. In some cases the activity may have created or enhanced the wetland.

- Uses of national importance should also be given regard in consenting an activity affecting a RSW or RSW value. This is in line with the RMA, gives effect to relevant National Policy Statements (NPS for Freshwater Management 2011, NPS for Renewable Electricity Generation 2011, NPS on Electricity Transmission 2008) and National Environmental Standards (NES for Electricity Transmission Activities), and recognises that in some cases an important project may adversely affect an RSW or RSW value.
- The Plan is activity-neutral and generally does not zone land for specific activities such as ski-fields. There is no need to establish specific management zones for RSWs that currently hold important human use values. The amendments we propose to Policy 10.4.2 and the rules provide sufficient protection for existing activities and the continued operation and maintenance of associated infrastructure located in RSWs.
- It is also appropriate to give regard to positive effects on RSWs or RSW values as in some cases an activity may have short term adverse effects on the wetland, but in the long term will enhance the wetland.
- New activities or changes to the scale or nature of existing activities may require consent under the proposed plan change, in order that the adverse impacts on RSWs and RSW values can be assessed, avoided or managed. The associated costs (including consenting fees and opportunity costs) for landholders are acceptable given the importance of sustaining Otago's remaining RSW values.

Note: Where the proposed plan provisions may result in further controls and restrictions on the use of land, Section 85 of the RMA exempts local authorities from the general responsibility for paying landholders any financial compensation.

2.3 General permissions, controls, and discretions

Rules for permitted, controlled and restricted discretionary activities in Chapters 12 and 13

Plan Change 2 reference: R026 - R029, R037, R048 - R050, R053, R063 - R066, R072 - R075, R077- R092, R103, R108, R110, R111, R114, R118, R119, R153, R155, R156, R162 (generic permitted activities, pages 15- 71)

Summary of Decisions Requested: Pages 61-113

The notified Plan Change proposes that activities with minimal effect are permitted, those likely to have some adverse effect are controlled, restricted discretionary or discretionary activities, and those likely to do lasting damage are non-complying activities. There are two main types of generic condition:

1. A generic condition for permitted activities "*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*".
2. A generic control or discretion for controlled or restricted discretionary activities: "*Any effect on any Regionally Significant Wetland or on any regionally significant wetland value*".

We considered the submissions and recommend clarification of the generic permissions, controls and discretions, as follows:

- a) Amend the generic permitted activity condition which applies to Rules 12.1.2.4(b), 12.1.2.5(a), 12.1.2.6(a); 12.2.2.5(b), 12.2.2.6(a), 12.3.2.1(e), 12.3.2.2(a), 12.3.2.3(d), 12.11.2.1(g), 12.11.2.2(a), 13.4.1.1(i), 13.5.1.1(i), 13.5.1.3(h) as follows:

(xA) There is no change to the water level range or hydrological function of any Regionally

Significant Wetland: and

~~(xB) There is no damage to the flora, fauna, or New Zealand native flora, or its habitat, in or on any Regionally Significant Wetland; and~~

(Note that these changes do not show deleted operative text – this is shown in the marked up plan change at the end of this report.)

- b) Amend the generic permitted activity condition which applies to Rules 12.7.1.2(e), 12.7.1.3(g), 12.7.1.4(e) and 12.8.1.5(c), as follows:

~~(x) There is no change to the water level or hydrological function, or no damage to the flora, fauna, or New Zealand native flora, or its habitat, in or on any Regionally Significant Wetland.~~

- c) Adopt the generic control “Any effect on any Regionally Significant Wetland or any regionally significant wetland value” which applies to Rules 12.1.3.1(i) and 12.2.2A.1 as proposed.

~~(x) Any effect on any Regionally Significant Wetland or on any regionally significant wetland value.~~

- d) Adopt the generic discretion “Any effect on any Regionally Significant Wetland or any regionally significant wetland value” which applies to Rules 12.1.4.8, 12.2.3.4, 12.3.3.1, 12.4.2.1, 13.2.2.1, 13.3.2.1, 13.4.2.1 and 13.5.2.1 as proposed.

~~(x) Any adverse effect on a significant wetland value identified in Schedule 9 or any wetland higher than 800 metres above sea level any Regionally Significant Wetland or on a regionally significant wetland value; and~~

Reasons for recommendation:

- The generic permitted activity conditions are clear and consistent with sustainable management under Section 5 of the RMA. They apply to activities that may have an adverse effect on a RSW, but has not been applied to activities for which the adverse effects on RSWs would be no more than minor (such as the erection of a fence, pipe, line or cable over a RSW).
- The generic permitted activity conditions have sufficient certainty and are understandable, functional, and useful in protecting RSWs.
- Damaging exotic plants is unlikely to adversely affect RSWs and RSW values, and in some cases will enhance them. Therefore it is appropriate to remove them from the generic permitted activity conditions. It is also appropriate to remove “habitat”, as this is addressed through other elements of the condition relating to water level range and hydrological function.
- ORC will continue to respond to breaches of the condition brought to their attention. Independent assessment of changes to RSWs is not required. ORC will be undertaking monitoring of the region’s RSWs and their values as part of the State of the Environment monitoring process. Over time, such monitoring identifies any incremental change to RSWs, and this information is used in monitoring the effectiveness of plan provisions, as requested under Section 35(c) of the RMA.
- The natural character of wetlands and their margins, and effects on biological diversity and ecological values are covered by the permitted activity condition and the matters listed in the

controlled or restricted discretionary rules. Effects on natural character are addressed specifically in most rules, dependent on the activity being undertaken.

- The broad nature of the generic control and discretion provides protection for RSWs and RSW values. It is appropriate to give regard to positive effects on RSWs or RSW values as in some cases an activity may have short term adverse effects on the wetland, but in the long term will enhance the wetland.

2.4 Taking and use of surface water

Rules 12.1.1A.1 – 12.1.26

Plan Change 2 reference: R022, R026, R027, R028 and R156 (pages 15-28), R157 (drain maintenance)

Summary of Decisions Requested: pages 65-69, pages 87-91, pages 109-110.

The proposed plan change provides that most water takes from a RSW are non-complying activities as they may significantly adversely affect RSWs. However, some takes are permitted, providing the conditions specified are met. If they are not, consent is required.

Draining water from a wetland may involve the taking and/or diversion of water, and an alteration of the wetland (digging of the drain, or physically clearing it). The notified plan change proposes that both new drains and drain maintenance in a RSW are treated the same, requiring consent as a non-complying activity for the taking and/or diversion of water (Rules 12.1.1A.1, 12.2.1A.1, 12.3.1A.1) and consent for any alteration of the wetland as a discretionary activity (Rule 13.5.3.2).

We considered the submissions and recommend recognising drains in RSWs that were lawfully established when the plan change was notified, and clarifying provisions, as follows:

- a) Amend Rule 12.1.1A.1 as follows:

~~Unless covered by Rules 12.1.1.1, 12.1.1.2, 12.1.2.1 and 12.1.2.3, the~~ The taking and use of surface water from within any Regionally Significant Wetland is a **non complying activity**, unless:

- It is prohibited by Rules 12.1.1.1 or 12.1.1.2; or
- It is permitted by Rules 12.1.2.1, 12.1.2.3 or 12.1.2.6.

- b) Amend Rule 12.1.2.6 as follows:

~~Unless covered prohibited by Rules 12.1.1A.1 or 12.1.1.2, the~~ the taking of surface water for the purpose of land drainage is a **permitted** activity, providing:

- Any taking within a Regionally Significant Wetland was lawfully established prior to 2 July 2011. The water is not taken from, nor is there any alteration of the water level of; 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 wetland identified in Schedule 9 or any wetland higher than 800 metres above sea level; and
- There is no change to the water level range or hydrological function of any Regionally Significant Wetland; and
- There is no damage to fauna, or New Zealand native flora, in or on any Regionally Significant Wetland; and
- ~~(b)~~ The taking does not result in the lowering of the level of water in any lake or

river; and

(~~ee~~) ~~The water is not taken from any wetland identified in Schedule 10; and~~

(~~ef~~) The taking does not cause flooding of any other person's property, erosion, land instability, sedimentation or property damage.

Reasons for recommendation:

- It is appropriate to clarify that the non-complying activity status only restricts takes that are within a RSW. This creates a clear, workable rule framework as the RSW has a definable boundary.
- A non-complying consent application can only be granted if either the activity's adverse effects are minor, or if the activity is not contrary to the Plan's objectives and policies (Section 104D of the RMA). This activity status provides greater certainty and a higher level of protection for RSWs as it clearly signals that consent may not be granted for activities that adversely affect RSWs.
- The permitted rules cover some takes from outside RSWs, as well as from within RSWs for domestic or animal drinking water takes, takes from artificial lakes, and existing takes for land drainage.
- It is overly onerous to require consent for existing takes for land drainage. They are likely to be in equilibrium with existing RSW's and their values, and should be permitted. New takes within RSW's for land drainage should be discouraged. Consent should be sought for this activity so the effects can be examined, avoided or managed.
- Structural change to the provisions improve clarity.
- See also the reasons under section 2.3 - General permissions, controls, and discretions.

2.5 Taking of groundwater

Rules 12.2.1A.1 – 12.2.5.1

Plan Change 2 reference: R045 and R156 (pages 28-36), R157 (drain maintenance)

Summary of Decisions Requested: pages 70-71, pages 87-91, pages 109-110.

The proposed plan change provides that most water takes from a RSW are non-complying activities as they may significantly adversely affect RSWs. However, some takes are permitted, providing the conditions specified are met. If they are not, consent is required.

We considered the submissions and recommend clarifying provisions, as follows:

a) Amend Rule 12.2.1A.1 as follows:

~~Unless covered by Rules 12.1.1.1, 12.1.1.2, 12.1.2.1 and 12.1.2.3, the taking of groundwater from within any Regionally Significant Wetland is a **non complying activity**, unless:~~

i. It is prohibited by Rules 12.2.1.1 or 12.2.1.2; or

ii. It is permitted by Rules 12.2.2.1 or 12.2.2.3.

Reasons for recommendation:

- It is appropriate to clarify that the non-complying activity status only restricts takes that are within a RSW. This creates a clear, workable rule framework as the RSW has a definable boundary.
- A non-complying consent application can only be granted if either the activity's adverse effects are minor, or if the activity is not contrary to the Plan's objectives and policies (Section 104D of the RMA). This activity status provides greater certainty and a higher level of protection for RSWs as it clearly signals that consent may not be granted for activities that adversely affect RSWs.
- The permitted activity rules cover some takes from outside RSWs, as well as from within RSWs for domestic or animal drinking water takes, and down-hole pump testing.
- Structural changes to the provision improves clarity.

2.6 Damming and diversion of water

Rules 12.3.1A.1 – 12.3.5.2

Plan Change 2 reference: R060, R063, R064, R066, R156 (pages 36 - 40), R157 (drain maintenance)

Summary of Decisions Requested: pages 73-78, pages 87-91, pages 109-110.

The proposed plan change provides that most diversions from a RSW, and damming or diversion that affects the water level of a RSW, are non-complying activities, as they may cause significant adverse effects to RSWs. However, some damming or diversion activities are permitted, providing the conditions specified are met. If they are not, consent is required.

Draining water from a wetland may involve the taking and/or diversion of water, and an alteration of the wetland (digging of the drain, or physically clearing it). The notified plan change proposes that both new drains and drain maintenance in a RSW are treated the same, requiring consent as a non-complying activity for the taking and/or diversion of water (Rules 12.1.1A.1, 12.2.1A.1, 12.3.1A.1) and consent for any alteration of the wetland as a discretionary activity (Rule 13.5.3.2).

We considered the submissions and recommend better recognition for dams and diversions that existed at the time the plan change was notified, and clarifying provisions, as follows:

a) Amend Rule 12.3.1A.1 as follows:

~~Unless covered by Rules 12.3.1.1 to 12.3.1.4, and 12.3.3.1(i);~~
~~(i) The damming or diversion of water from or within any Regionally Significant Wetland; or~~
~~(ii) The damming or diversion of water that affects the water level of any Regionally Significant Wetland;~~
is a ***non-complying*** activity, unless:
 i. It is prohibited by Rules 12.3.1.1 to 12.3.1.4; or
 ii. It is permitted by Rules 12.3.2.1 to 12.3.2.3; or
 iii. It is provided for by Rule 12.3.3.1(i).

b) Amend Rule 12.3.2.1:

~~Unless covered prohibited by Rules 12.3.1A.1, and Except as provided for by Rules 12.3.1.1 to 12.3.1.4, the damming or diversion of water is a *permitted* activity, providing:~~
(a) The size of the catchment upstream of the dam, weir or diversion is no more than 50 hectares in area; and
(b) In the case of damming, the water immediately upstream of the dam is no more than 3 metres deep, and the volume of water stored by the dam is no more than 20,000 cubic metres; and
(c) In the case of diversion, the water is conveyed from one part of any lake or river, or its tributary, to another part of the same lake, river or tributary; and
(d) No lawful take of water is adversely affected as a result of the damming or diversion; and
(e) Any damming or diversion within a Regionally Significant Wetland was lawfully established prior to 2 July 2011~~No wetland identified in Schedule 9 nor any wetland higher than 800 metres above sea level is adversely affected~~ 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; and
(f) There is no change to the water level range or hydrological function of any Regionally Significant Wetland; and
(g) There is no damage to fauna, or New Zealand native flora, in or on any Regionally Significant Wetland; and
(~~h~~) The damming or diversion does not cause flooding of any other person's property, erosion, land instability, sedimentation or property damage; and
(~~e~~i) The damming or diversion is not within the Waitaki catchment.

c) Amend Rule 12.3.2.2 as follows:

~~Unless covered by Rule 12.3.1A.1, the~~ The diversion of water, for the purpose of land drainage, is a *permitted* activity, providing:

- (a) ~~Any diversion within a Regionally Significant Wetland was lawfully established prior to 2 July 2011~~ The water is not diverted from, nor is there any alteration of the water level of, ~~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~~ wetland identified in Schedule 9 or any wetland higher than 800 metres above sea level; and
- (b) ~~There is no change to the water level range or hydrological function of any Regionally Significant Wetland; and~~
- (c) ~~There is no damage to fauna, or New Zealand native flora, in or on any Regionally Significant Wetland; and~~
- (~~b~~d) The diversion does not result in the lowering of the level of water in any lake or river; and
- (e) ~~The water is not taken from any wetland identified in Schedule 10; and~~
- (~~d~~e) The diversion does not cause flooding of any other person's property, erosion, land instability, sedimentation or property damage.

d) Amend Rule 12.3.2.3 as follows:

~~Except as provided for~~ ~~Unless prohibited~~ by Rules ~~12.3.1.1 to 12.3.1.4, 12.3.1A.1, 12.3.2.1 and 12.3.2.2,~~ the diversion of water carried out for the purposes of allowing the erection, placement, repair or maintenance of a lawful structure, is a *permitted* activity, providing:

- (a) The course of the water always remains within the bed of the lake or river; and
- (b) The course of the water is returned to its normal course following the completion of the repair or maintenance, and no more than one month after the diversion occurs; and
- (c) No lawful take of water is adversely affected as a result of the diversion; and
- (d) ~~Any structure within a Regionally Significant Wetland was lawfully established prior to 2 July 2011~~ No wetland identified in Schedule 9 nor any wetland higher than 800 metres above sea level is adversely affected ~~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; and~~
- (e) ~~There is no change to the water level range or hydrological function of any Regionally Significant Wetland; and~~
- (f) ~~There is no damage to fauna, or New Zealand native flora, in or on any Regionally Significant Wetland; and~~
- (eg) The diversion does not cause any erosion, land instability, sedimentation or property damage.

e) Amend Rule 12.3.3.1 (i) as follows:

~~Except as provided for by Rules 12.3.1.1 to 12.3.1.4, and 12.3.2.1 to 12.3.2.3 and except in Welcome Creek, †~~The damming of water, which has been previously carried out under a resource consent or other lawful authority, is a *restricted discretionary* activity, unless:

- i. It is prohibited by Rules 12.3.1.1 to 12.3.1.4; or
- ii. It is permitted by Rule 12.3.2.1; or
- iii. It is in Welcome Creek.

Reasons for recommendation:

- It is appropriate that the non-complying activity status only restricts damming and diversion that occur within a RSW. This creates a more workable rule framework as the RSW has a definable boundary.
- A non-complying consent application can only be granted if either the activity's adverse effects are minor, or if the activity is not contrary to the Plan's objectives and policies (Section 104D of the RMA). This activity status provides greater certainty and a higher level of protection for RSWs as it clearly signals that consent may not be granted for activities that adversely affect RSWs.
- The permitted rules cover some damming and diversion outside RSWs, as well as from within RSWs in catchments of 50 hectares or less and diversions for the purpose of land drainage or to place or repair a structure. This is appropriate as these activities could be undertaken with minimal affect on RSWs, and the provisions contain the generic permitted activity condition requiring no change to the water level range or hydrological function, and no damage to fauna, or New Zealand native flora, in any Regionally Significant Wetland.
- It is appropriate that damming previously carried out is a restricted discretionary activity, whether it is in a RSW or not. There will often be substantial investment in infrastructure, and also the existing damming is likely to be in equilibrium with the wetland. In some cases the damming may in fact have created or enhanced the wetland.
- It is overly onerous to require consent for existing diversions for land drainage. They are likely to be in equilibrium with existing RSW's and their values, and should be permitted. New diversions within RSW's for land drainage should be discouraged. Consent should be sought for this activity so the effects can be examined, and avoided or managed as appropriate to the situation.

2.7 Discharges

Rules in 12.4 to 2.11

*Plan Change 2 reference: R076, R077, R078, R079 and R083 (pages 44-48), R156 (pages 15-55)
Summary of Decisions Requested: pages 80-84, pages 87-91*

Plan Change 2 proposes amendments to a number of discharge rules in order to better protect RSWs.

Note that Proposed Plan Change 6A (Water Quality) to the Regional Plan: Water for Otago, which proposes changes to the discharge rules, was notified on 31 March 2012. As a result of that Plan Change, several rules relating to discharges were withdrawn from Plan Change 2 in order to avoid confusion between the two plan changes.

We considered the submissions and recommend the following:

- a) Amend Rules 12.7.1.2, 12.7.1.3, 12.7.1.4, 12.8.1.5, 12.11.2.1, and 12.11.2.2 as proposed in section 2.3.
- b) Adopt Rules 12.4.1.1, 12.4.2.1 and 12.7.1.1 as proposed

Reasons for recommendation:

- Wetlands by their very nature can treat certain discharges.
- For some discharges to RSWs, assessment on a case by case basis is required to understand the effects of the discharge on RSWs and RSW values.
- The amendments provide appropriate protection to RSWs and RSW values.
- Damaging exotic plants is unlikely to adversely affect RSWs and RSW values, and in some cases will enhance them. Therefore it is appropriate to remove them from the generic permitted activity condition. This change is unlikely to result in loss of protection for RSWs and RSW values, but does make exotic weed control easier. Weed spraying operations to restore RSWs should not result in over-spray or spray drift affecting non target species. Extra care needs to be taken to avoid this, and if avoidance of such damage is not possible, resource consent must be applied for.

2.8 Structures in Regionally Significant Wetlands

Rules 13.2.1.1 – 13.2.3.1

Plan Change 2 reference: R096-107 (pages 58-62) R155 (page 57-71), R162 (Generic permitted activity conditions for wetlands protection)

Summary of Decisions Requested: pages 92-95, pages 103-113

Chapter 13 sets out the rules relating to activities on the beds of lakes and rivers. Sections 13.1 – 13.4 of Chapter 13 of the Plan contain rules that control the use, construction, alteration, and removal of structures on the beds of lakes and rivers. Plan Change 2 proposes to extend the scope of the rules controlling such activities to include RSWs.

Note that Proposed Plan Change 6A (Water Quality) to the Regional Plan: Water for Otago, which proposes changes to the rules was notified on 31 March 2012. As a result of that Plan Change, several rules were withdrawn from Plan Change 2 in order to avoid confusion between the two plan changes. This includes rule 13.2.1.7 on the erection or placement of a bridge, boardwalk or culvert.

We considered the submissions and recommend the following:

- a) Adopt Rules 13.2.1.1, 13.2.1.2, 13.2.1.4, 13.2.1.8, and 13.2.3.1 as proposed.
- b) Adopt Rule 13.2.2.1 as proposed in section 5.2.3.

c) Amend Rule 13.2.1.5 as follows:

The erection or placement of any maimai that is fixed in, on or under the bed of any lake or river, or any Regionally Significant Wetland is a *permitted* activity, providing: ~~that for the bed of any lake or river:~~

- (a) The structure does not exceed 10 square metres in area; and
- (b) The structure is open piled; and
- (c) The structure is at least 90 metres from any adjacent maimai; and
- (d) The site is left tidy following the erection or placement.

d) Amend Rule 13.2.1.6 as follows:

The erection or placement of any whitebait stand or eel trap that is fixed in, on or under the bed of any lake or river, or any Regionally Significant Wetland is a *permitted* activity, providing: ~~that for the bed of any lake or river:~~

- (a) The structure is open piled; and
- (b) The structure does not exceed three square metres in area; and
- (c) The dimension of the structure perpendicular to the flow of water is no more than 10 percent of the width of the bed of the lake or river, or no more than three metres, whichever is the lesser; and
- (d) The structure is at least 20 metres from any neighbouring structure, flood gate, confluence or culvert located within the bed of a lake or river; and
- (e) In the case of a whitebait stand, the structure is erected or placed in or on the bed of the Clutha River/Mata-Au, or its branches; and
- (f) The site is left tidy following the erection or placement.

e) Amend Rule 13.2.2.1 as follows:

Except as provided for by Rules 13.2.1.1, 13.2.1.2, ~~and~~ 13.2.1.5 to 13.2.1.7, the erection or placement of any fence, pipe, line, cable, whitebait stand, eel trap, maimai, jetty, bridge or ~~culvert crossing~~ crossing in, on, under, or over the bed of any lake or river, or the erection or placement of any fence, pipe, line, cable, jetty, bridge, culvert crossing or boardwalk in, on, under or over any Regionally Significant Wetland, is a *restricted discretionary* activity.

In considering any resource consent for the erection or placement of any fence, pipe, line, cable, whitebait stand, eel trap, maimai, jetty, bridge or ~~culvert crossing~~ crossing in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:

- (a) Any adverse effects of the activity on:
 - (i) Any natural and human use value identified in Schedule 1 for any affected water body;
 - (ii) The natural character of any affected water body;
 - (iii) Any amenity value supported by any affected water body; and
 - (iv) Any heritage value associated with any affected water body; and
- (aa) Any effect on any Regionally Significant Wetland or on any regionally significant wetland value; and

- (b) Flow and sediment processes; and
- (c) Any adverse effect on a defence against water; and
- (d) Any adverse effect on existing public access; and
- (e) Fish passage; and
- (f) The method of construction; and
- (g) The duration of the resource consent; and
- (h) The information and monitoring requirements; and
- (i) Any existing lawful activity associated with any affected water body; and
- (j) Any bond; and
- (k) The review of conditions of the resource consent.
- (l) Any financial contribution for regionally significant wetland values or Regionally Significant Wetlands that are adversely affected.

Reasons for recommendation:

- The proposed plan change extends the scope of some of the rules about structures to RSWs, including to areas defined as “land” within the wetland. Therefore some wetlands may also be governed by land use controls in a District Plan as well as in the Water Plan. Some overlap is acceptable as regional and district rules protect wetlands in different ways.
- The proposed provisions are intended to avoid any adverse impact on RSW values arising from these activities or structures. Permitted activity conditions ensure that structures don’t have an effect on the RSW or RSW values, obstruct the movement of people, or threaten human safety, property or the environment.
- The rules continue to provide for the regular use and operation of lawfully established structures, their repair, maintenance, extension, alteration, replacement or reconstruction as conditional permitted activities, provided there is no change to the scale, nature or function of the activity or structure.
- The effects-based approach in the rules is less prescriptive than explicit design criteria, such as setback distances that regulate the erection or placement of structures in areas adjacent to a RSW.
- Conditions in the permitted rules on maimai, whitebait stands and eel traps should cover both the wet and dry parts of the RSW. Although the risk of adverse effect on RSWs and RSW values is considered low from placement of such structures (especially in the dry area of RSWs), it is less confusing and makes Plan administration easier to treat the wet and dry parts of the RSW in the same way.
- Amending Rule 13.3.1.2 (a) to state that a structure can be replaced or reconstructed in approximately the same location as the original structure is considered inappropriate as the term “approximately” provides little certainty to plan users as to where structures can be relocated to or in what location they can be reconstructed without triggering the need for resource consent. In some situations a small variation in location may have an adverse effect on that wetland or any of the RSW values it supports.
- The erection and placement of a structure within any wetland, regardless of its significance, can have an adverse effect on this environment and the values it supports. However, the

plan change does not address the erection and placement of structures in non-regionally significant wetlands.

- Amending Rule 13.2.2.1 will ensure greater consistency with the wording of the provisions proposed under Plan Change 6A (Water Quality), notified on 31 March 2012.

2.9 Alteration of Regionally Significant Wetlands

Rules 13.5.1.1 – 13.5.3.2

Plan Change 2 reference: R116-117, R120 (pages 66-68), R155 (pages 57-71), R162 (Generic permitted activity condition for wetlands protection)

Summary of Decisions Requested: pages 97-99, pages 103-108, pages 111-113

Chapter 13 contains rules that regulate the disturbance and reclamation of the bed of any lake and river and the deposition of substances in, on or under the bed of any lake and river. Plan Change 2 proposes to extend these controls over RSWs.

Draining water from a wetland may involve the taking and/or diversion of water, and an alteration of the wetland (digging of the drain, or physically clearing it). The plan change as notified proposes that both new drains and drain maintenance in a RSW are treated the same, requiring consent as a non-complying activity for the taking and/or diversion of water (Rules 12.1.1A.1, 12.2.1A.1, 12.3.1A.1) and consent for any alteration of the wetland as a discretionary activity (Rule 13.5.3.2).

Note that Proposed Plan Change 6A (Water Quality) to the Regional Plan: Water for Otago, which proposes changes to the rules, was notified on 31 March 2012. As a result of that Plan Change, several rules were withdrawn from Plan Change 2 in order to avoid confusion between the two plan changes. This includes rule 13.5.1.8 on disturbance by livestock.

We considered the submissions and recommend a new rule for maintenance of existing drains in RSWs, and clarification of provisions, as follows:

- a) Amend Rule 13.5.1.5A as follows:

<p>13.5.1.5A <u>The alteration of any Regionally Significant Wetland, associated with the introduction, planting, removal or clearance of plant material is a <i>permitted</i> activity providing:</u></p> <p>(a) <u>the introduction, planting, removal or clearance is carried out under Rules 13.6.2.0 or 13.7.1.2, or</u></p> <p>(b) <u>the introduction, planting, removal or clearance is carried out under a resource consent.</u></p>

b) Adopt new Rule 13.5.1.5B:

The disturbance of any Regionally Significant Wetland, for the purpose of drain maintenance, is a *permitted* activity, providing:

- (a) The disturbance is limited to that necessary to address water accumulating on land outside of any Regionally Significant Wetland; and
- (b) The drain was lawfully constructed on or before 2 July 2011; and
- (c) The drain has been maintained within the preceding 15 years; and
- (d) There is no increase in the drain dimensions from the last maintenance; and
- (e) All reasonable measures are taken to minimise the release of sediment to any water body during the disturbance, and there is no conspicuous change in the colour or visual clarity of any water body beyond a distance of 100 metres downstream of the disturbance; and
- (f) All reasonable steps are taken to minimise damage to fauna and New Zealand native flora; and
- (g) At least ten working days prior to commencing the maintenance, the Otago Regional Council is given notice of the location and date of the drain maintenance; and
- (h) Within ten working days after the drain maintenance is carried out, the Otago Regional Council is provided with:
 - a. Photographs of:
 - i. The drain immediately before and after maintenance; and
 - ii. The wetland adjoining the drain being maintained, showing vegetation cover; and
 - b. Dimensions (longitude and cross-section) of the drain immediately before and after maintenance.

c) Amend Rule 13.5.3.2 as follows:

Unless covered by Rules 13.5.1.1, 13.5.1.3, 13.5.1.5A, or 13.5.1.5B, ~~or 13.5.1.8~~, the alteration of any Regionally Significant Wetland, is a *discretionary* activity.

d) Amend note box at 13.5 as follows:

Note: ~~Alteration of the bed or wetland~~ includes any ~~bed or wetland~~ disturbance, reclamation or deposition.

e) Amend Rules 13.5.1.1 and 13.5.1.3 as proposed in section 2.3

Reasons for recommendation:

- The amendments to Section 13.5 of Proposed Plan Change 2 will provide clarity and better guidance on the interpretation of the provisions regulating the alteration of the bed of any lake or river or RSW.
- Proposed condition (i) of Rule 13.5.1.1 effectively protects the RSW values against the threat of sediment mobilisation and transport, and any other adverse effects arising from activities such as construction, clearance of debris and maintenance of water intakes.

- Pond creation and humping and hollowing modify RSWs and can have adverse effect on RSW values. Therefore it is appropriate to control these activities through the rules and consenting process.
- It is overly onerous to require consent for disturbing a RSW to maintain an existing drain in order to prevent water accumulating on land outside of a RSW. This would be for flood mitigation purposes, or to ensure productive land stays dry enough to be productive. Limiting the maintenance to the dimensions at the last maintenance should protect RSW's and RSW values. Requiring prior notification and provision of information will assist Council to ensure RSWs are protected. The digging of new drains within RSW's should be discouraged. Consent should be sought for this activity so the effects can be examined, avoided or managed.

2.10 Introduction and removal of vegetation in Regionally Significant Wetlands

Rules 13.6.1.1 – 13.7.3.1

Plan Change 2 reference: R121 -126 (pages 69-71) R155 (pages 57-71), R156 (pages 15-55), R161 (Protection general), R162 (Generic permitted activity condition for wetlands protection)

Summary of Decisions Requested: pages 87-91, pages 99 –108, pages 110-113

Sections 13.6 and 13.7 contain rules that control the introduction, planting and removal of vegetation on lake or river beds. Plan Change 2 proposes to extend controls over these activities to include RSWs.

We considered the submissions and recommend standardising the provisions relating to effects, as follows:

- a) Adopt Rules 13.6.1.1, 13.6.3.1, and 13.7.3.1 as proposed.
- b) Amend Rule 13.6.2.0 as follows:

The introduction or planting of any New Zealand native plant to any Regionally Significant Wetland, is a *permitted* activity providing:

- (a) All reasonable ~~steps~~ measures are taken to minimise effects on any Regionally Significant Wetland or on any regionally significant wetland value ~~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
- (b) The introduction or planting does not cause any flooding or erosion; and
- ~~(c) The wetland alteration is limited to that which is necessary for the introduction or planting of the plant material.~~

c) Amend Rule 13.7.1.2 as follows:

The removal or clearance of plant material exotic to New Zealand from any Regionally Significant Wetland, is a *permitted* activity providing:

- (a) The plant is not Lagarosiphon (*Lagarosiphon major*) in Lake Wanaka or Lake Dunstan; and
- (b) All reasonable ~~steps~~ measures are taken to minimise effects on any Regionally Significant Wetland or on any regionally significant wetland value ~~the release of sediment to the wetland during the removal or clearance;~~ and
- (c) The wetland alteration is limited to that which is necessary for the removal or clearance of the plant material.

d) Amend Rule 13.7.2.1 as follows:

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:

- (i) Lagarosiphon *Lagarosiphon major*; or
- (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.

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:

- (a) The method of removal; and
- (aa) ~~Any disturbance of a~~ The effects on any Regionally Significant Wetland, or on any regionally significant wetland value; and
- (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.

Reasons for recommendation:

- Amending permitted activity Rules 13.7.1.2 (b), 13.6.2.0 (a) and 13.7.2.1 (aa) will encourage the utilisation of methods for the removal or clearance of vegetation that minimise the effects on any values and will further improve the consistency between the proposed plan provisions. The amendments to Rules 13.6.2.0 and 13.7.1.2 also ensure greater consistency with the wording of the provisions proposed under Plan Change 6A (Water Quality)
- There is no need to add condition (c) to Rules 13.6.2.0 and 13.7.1.2 as the issue of minimising the adverse effects is already appropriately covered under provision 13.6.2.0 (a) and 13.7.1.2 (b).
- The discretionary activity status for the removal of indigenous plants provides sufficient protection for native vegetation. Changing the activity status for this activity from discretionary to non-complying could hamper conservation and weed control efforts.
- The proposed rules provide for the removal and harvesting of exotic plants (except Lagarosiphon) from RSWs as a permitted activity provided conditions are met. The permitted activity conditions address likely effects, so there is no reason to create an additional hurdle to pest plant removal from RSWs by requiring consent.
- There is no need for specific provisions that address the trimming of vegetation around lawfully established structures in a RSW and underneath pylon and power lines located over a RSW. Very few issues are expected to arise from the trimming of vegetation located near these structures, as exotic plants (except Lagarosiphon) can be removed or trimmed under the permitted activity rules provided the conditions are met. Also native wetland species are typically low growing and seldom pose a threat to the continued and safe use of these structures.
- The addition of more pest plants to lists in Rules 13.6.1.1 and 13.7.2.1 would not markedly improve protection for RSW values because the introduction of any other exotic plant species not listed under Rule 13.6.1.1 is a already discretionary activity.
- Council supports the principle of sourcing of native plants from local seed for wetland re-vegetation and wetland enhancement. Policy 10.4.6 allows for the promotion of eco-sourcing through education and information provision and none of the rules proposed restrict this practice. However, amending the plan change to include a rule that prescribes eco-sourcing as requirement for wetland rehabilitation or enhancement would be restrictive and could prove to be impractical.
- Council supports the principle of providing guidance on the selection of plant species suitable to a river margin environment. However, amending the plan change to include specific provisions that address the planting of rivers margins would be outside the scope of this plan change. Furthermore, the inclusion of a list of plant species suitable for the planting of river margins would be inconsistent with the wider goal of streamlining and simplifying the Plan. This type of information is better suited to separate educational brochures.

2.11 Further wetland protection

Relates to all provisions

Plan Change 2 reference: R026, R027 and R028 (pages 17-18), R037, R048, R049, R050, R053, R066, R072, R073, R103, R108, R111, R114, R 119, R123 (pages 24- 69), R155 (pages 57-71)

Summary of Decisions Requested: pages 67-110

One submitter requests further policies and rules to protect RSWs and other wetlands. Changes requested on the following matters:

- Ecological criteria
- Addition of further wetlands to Schedule 9
- Protection of unscheduled significant wetlands
- Protection of wetlands of lesser significance

We considered the submissions and recommend the following:

- a) Make no amendment to the proposed plan change relating to these requests.

Reasons for recommendation:

- Amending the policy framework proposed under Plan Change 2 by including a new policy that provides for the assessment of unscheduled wetlands against ecological criteria that differ from the RSW values listed in Policy 10.4.1 is beyond the scope of the plan change, because Plan Change 2 only focuses on Regionally Significant Wetlands.
- The existing values were established through a community process which has, in time, resulted in a system that has identified and protected most if not all of Otago's important wetlands.
- Unscheduled wetlands which are proven to support one or more RSW values can be included in Schedule 9 of the Water Plan through the plan change process outlined in Schedule 1 of the RMA. The proposed policy framework and introduction to Schedule 9 provide further guidance on the criteria that need to be met by a wetland in order for it to be eligible for inclusion in Schedule 9. There is no need for a separate process policy that clarifies the process for adding further wetlands to Schedule 9.
- The proposed plan change strengthens the protection for wetlands that are known to support RSW values but that have not been included in Schedule 9. The generic controls and discretions in the rules of Chapters 12 and 13 proposed under Plan Change 2, require consideration of any effect on RSW values where activities require consent.
- The RMA and Regional Policy Statement currently contain provisions that emphasize the need to recognise the natural character of all wetlands, while various provisions in the operative Water Plan allow for the consideration of adverse effects of activities on all water bodies, whether these are situated within RSWs or wetlands of lesser significance. Amending the plan provisions to further protect wetlands of lesser significance would be beyond the scope of the plan change.
- The Inventory can hold any relevant information about wetlands, and may include wetlands that are not identified in Schedule 9.

2.12 Financial contributions

Policies 10.4.2A, 10.4.4, Introduction to Chapter 17, Provision 17.2.8

Plan Change 2 reference: R010 (page 10), 165 (financial contributions)

Summary of Decisions Requested: pages 113-116

The operative Plan provides for financial contributions in relation to wetlands in Chapter 10 (Wetlands) and Chapter 17 (Financial Contributions). Plan Change 2 proposes to delete Policy 10.4.4 and Provision 17.2.8, add new Policy 10.4.2A and amend the introduction to Chapter 17.

We considered the submissions and recommend simplifying the policy, as follows:

- a) Delete Policy 10.4.4 and Provision 17.2.8 as proposed.
- b) Amend Policy 10.4.2A as follows:

~~Where the avoidance, remedy or mitigation of adverse effects is not possible, financial contributions, determined in accordance with section 17.3, may be required to improve, create or reinstate regionally significant wetland values.~~

~~(a) Improve, create or reinstate Regionally Significant Wetlands or regionally significant wetland values where those have been degraded; and~~

~~(b) Create or reinstate Regionally Significant Wetlands or regionally significant wetland values where those have been lost.~~

~~The method of determining the contribution amount is set out in section 17.3.~~

- c) Adopt the Introduction to Chapter 17 as proposed.

Reasons for recommendation:

- The Regional Policy Statement for Otago endorses the use of financial contributions and the amended Policy 10.4.2A provides Council with the ability to require financial contributions in limited circumstances.
- The amended provisions on financial contributions continue to meet the requirements of the RMA, and provide sufficient guidance on the use of financial contributions as part of the consenting process.
- The recommended amendments to Policy 10.4.2A assist with making the Plan easier to read and interpret, whilst ensuring that the policy remains consistent with the approach of the operative Plan, Part 2 of the RMA, and the National Policy Statement for Freshwater Management 2011.
- The policy framework provides Council with the flexibility to require financial contributions or impose alternative mitigation measures through resource consent conditions. Financial contributions can be used to improve, create, or recreate RSW values either at site of the wetland affected, or at another location. Services or works can be imposed to remedy or mitigate the adverse effects of activities on wetlands.
- There are no clear benefits in replacing the words "improve, create, or reinstate", with "restore or rehabilitate". In some situations it may be more appropriate to require financial contributions to create new wetlands, rather than to restore or rehabilitate degraded wetlands.

- Where achievable, all adverse effects that cannot be avoided should be offset. Identifying a “minor” effects threshold could restrain the resource consent decision maker.
- Kai Tahu have the opportunity to become involved in consent applications where financial contributions may be made through the existing consent process, in particular where value A6 is involved. Amending Policy 10.4.2A to include an agreement by Nga runanga and other stakeholders before a financial contribution can be applied is unnecessary, and ultra-vires as a decision on a consent can only be made by those delegated RMA decision-making powers.

Chapter 3: Recommendations on the Schedules and Maps

Chapter 3 addresses those decisions requested by submitters that relate to the list of RSWs in Schedule 9 and the maps, F1-F68. It also covers how further wetlands could be added to the Schedule.

3.1 Schedule 9: Schedule of identified Regionally Significant Wetlands

Schedule 9, F-series of maps in the Regional Plan: Water for Otago Maps

Plan Change 2 reference: R007 and R008 (page 9), R138 (page 83), R139 (page 119), R200 (page 84-89), R400 (pages 90-113)

Summary of Decisions Requested: pages 50-53, pages 117-134

Schedule 9 lists all of Otago's identified RSWs. These wetlands have one or more RSW values. Plan Change 2 proposes removal of two inaccurately mapped wetlands above 800m ASL from Schedule 9, while adding to this Schedule 70 wetlands previously included in Schedule 10, and 24 newly identified wetlands with RSW values.

We considered the submissions and recommend the following:

- a) Amend the introduction to Schedule 9 as recommended in section 1.2- What is a Regionally Significant Wetland.
- b) Remove "Trig Q Ephemeral Pool" from Schedule 9.
- c) Add new wetland "Tavora Wetland" to Schedule 9.
- d) Change the name of "Lower Coutts Gully Swamp" to "Coutts Gully Swamp".
- e) Adopt all other changes to Schedule 9 as proposed.

Reasons for recommendation:

- The hearing committee is satisfied that a sufficiently robust process was used to identify and verify RSWs and their values. Where requested, ORC staff made field visits to verify wetland boundaries and an ecologist was contacted where RSW values were queried.
- Schedule 9 only contains mapped RSWs and Wetland Management Areas with one or more identified RSW value. If future ecological assessments would show that an unscheduled wetland contains at least one RSW value, this wetland can be added to Schedule 9 through the plan change process. The plan change process is outlined in Schedule 1 of the RMA 1991 and there is no need to repeat this process in the Plan.
- Adding a statement to the introduction to Schedule 9 that stipulates that this Schedule contains both identified and mapped RSWs and Wetland Management Areas will provide greater clarity to plan users. (See discussion under section 1.2- What is a Regionally Significant Wetland)
- **Te Hua Taki Wetland** - The information included in an ecological report prepared by Boffa Miskell in 2006 for Meridian Energy suggests that Te Hua Taki Wetland meets **RSW value A5**

(Wetland scarce in Otago in terms of its ecological or physical character).¹ A more recent ecological assessment undertaken by Wildland Consultants confirms that the wetland meets this RSW value.²

- **Shotover River Confluence Swamp** - An ecological report prepared by Natural Solutions for Nature Ltd in 2010 for Ladies Mile Partnership Ltd indicates the presence of **RSW value A1** (*Habitat for nationally or internationally rare or threatened species or communities*) and **RSW value A3** (*High diversity of wetland habitat types*) in the Shotover River Confluence Swamp³. The recent ecological assessment of this wetland by Wildland Consultants confirms that the site supports **RSW value A1** and also **RSW value A5**.⁴
- **Lower Manorburn Dam Margins** - It is appropriate to retain Lower Manorburn Dam Margins within Schedule 9 because an ecological assessment undertaken by Wildland Consultants shows that the wetland meets **RSW value A1** and **RSW value A5**.⁵
- **Kemp Road Lagoon** - An ecological assessment undertaken by Montgomery Watson (NZ) Ltd in 1997 identified Kemp Road Lagoon as a wetland supporting **RSW value A8** (*Regionally significant habitat of indigenous waterfowl*).⁶ A more recent assessment of this wetland undertaken by Landcare Research in 2008 also found the wetland to support **RSW value A4** (*High degree of naturalness*) and **RSW value A5** as identified.⁷ Insufficient evidence has been provided by submitters that this wetland no longer meets **RSW values A4, A5 and A8**.
- **Trig Q Ephemeral Pool** - During an ecological assessment of Trig Q Ephemeral Pool the ecologist from Wildland Consultants did not record any of the RSW values listed in Policy 10.4.1 within or near the mapped extent of this wetland.⁸
- **Tavora Wetland** - Evidence provided to the ORC shows that the wetland identified by submitters as Tavora Wetland qualifies as a wetland under the definition included in the RMA and supports **RSW value A1**.
- **Wetlands not listed in Schedule 9** - The wetlands identified and mapped by submitters as **Silver Peak Swamp, Waipahi River Swamp and Daphne Tarwood Peat Dome** are not eligible for inclusion in Schedule 9 as they are degraded in places and approval could not be obtained by affected landholders. The wetland identified and mapped by a submitter as **Ida Valley Kettle Holes** is not eligible for inclusion in Schedule 9 as insufficient evidence regarding the presence of RSW values within the wetland has been provided to Council.
- **Lower Coutts Gully Swamp** - Removing the word "Lower" from the name of the wetland identified in Proposed Plan Change 2 as Lower Coutts Gully Swamp better reflects how the wetland is often referred to by the local community. However, in order to remain consistent

¹ Boffa Miskell (2006) *North Bank Tunnel Concept. Water Consents. Wetland Assessment*. Prepared for Meridian Energy Limited.

² Wildland Consultants (2011) *Ecological Evaluation of Seven Wetlands in relation to proposed Plan Change 2, Regional Plan: Water for Otago*. pp.2-3.

³ Natural Solutions for Nature Ltd. (2010) *Ecological Assessment and Recommendations for Enhancement. Shotover Country, Stalker Road, Queenstown*. Report prepared for Ladies Mile Partnership.

⁴ Wildland Consultants (2011) *Ecological Evaluation of Seven Wetlands in relation to proposed Plan Change 2, Regional Plan: Water for Otago*. p.9.

⁵ Ibid. , pp.7-8.

⁶ Montgomery Watson (NZ) Ltd (1997) *Inventory of Otago Wetlands and Preliminary Assessment of Their Values*. Report prepared for the Otago Regional Council.

⁷ Ausseil, A.G., Newsome, P., Johnson, P. (2008) *Wetland Mapping in the Otago Region*. Landcare Research Contract Report prepared for the Otago Regional Council.

⁸ Wildland Consultants (2011) *Ecological Evaluation of Seven Wetlands in relation to proposed Plan Change 2, Regional Plan: Water for Otago*, pp.3-4.

with the ORC's common naming practices "swamp" gives a good indication of the wetland's hydrological characteristics, vegetation type and land form.

- As discussed in section 1.1 – Regionally Significant Wetland values, it is not appropriate to amalgamate various geographically clustered wetlands into a single wetland area if this would result in the inclusion of additional areas that do not qualify as wetland and do not support RSW values. The Regional Plan: Coast and the Regional Plan: Water provide sufficient protection for the water bodies that connect these individual wetlands, allowing these water bodies to function as ecological corridors for species migration and safeguarding their role in maintaining hydrological connectivity between individual wetlands and surrounding ecosystems.

3.2 Mapping of Schedule 9 Wetlands

F-series of maps in the Regional Plan: Water for Otago Maps

Plan Change 2 reference: R199 (Water Plan Maps F1-F68), R200 (pages 84—89), R400 (90-113)

Summary of Decisions Requested: pages 117-134

The geographical boundaries of identified RSWs and Wetland Management Areas included in Schedule 9 are shown in the F-series of the Water Plan. Plan Change 2 seeks to improve the accuracy of the maps by refining the boundaries of current Schedule 9 wetlands through a combination of aerial and Landsat satellite imagery analysis, expert opinion and on-the-ground visits. Additionally, the F-series of the Water Plan Maps were also changed to reflect the proposed changes to the listing of wetlands in Schedule 9.

We considered the submissions and recommend the following:

- f) Amend the maps in the F-series of the Water Plan Maps as shown on the attached maps for the following wetlands:
 - Akatore Creek Swamp
 - Chapman Road Inland Saline Wetland
 - Diamond Lake Wetland
 - Glenorchy Lagoon Wetland
 - Lake Reid Wetland
 - Pleasant River Estuary Wetland Complex
 - Three Stones Fen Complex
 - Upper Taieri Wetland Complex
 - Waipori Waihola Wetland Complex
- a) Remove Trig Q Ephemeral Pool from Map F55 of the F-series of the Water Plan Maps.
- b) Add Tavora Wetland to Map F66 of the F-series of the Water Plan Maps as shown on the attached maps.
- c) Adopt all other wetland boundaries as shown on the notified version of the proposed new F-series of the Water Plan.

Reasons for recommendation



- The F-series of maps in the Regional Plan: Water for Otago Maps must be consistent with the amendments to the listed Schedule 9 wetlands proposed under Plan Change 2 and discussed in Section 3.1 – Schedule 9: Schedule of identified Regionally Significant Wetlands.
- **Akatore Creek Swamp** - A site visit by an ORC staff member found the proposed wetland boundary contained areas that were not wetland, and areas abutting the boundary that were wetland.
- The ecological assessment by Wildland Consultants confirmed the presence of **RSW value A1, RSW value A3, RSW value A5, and RSW value A7** (*High diversity of indigenous flora and fauna*) in the northernmost portion of **Akatore Creek Swamp** and indicated the likely presence of **RSW value A9** (*Significant hydrological values including maintaining water quality or low flows, or reducing flood flows*) in the wetland.⁹
- It is not appropriate to adopt the wetland boundary proposed by the Wildland Consultant because it includes areas that are likely to degrade in the foreseeable future due to recent drainage activity, as well as areas that are regulated by the rule framework of the Regional Plan: Coast for Otago as they are below MHWS.
- **Chapman Road Inland Saline Wetland** - A site visit by an ORC staff member found the proposed wetland boundary encompassed a driveway which was not a wetland area. This wetland is predominantly on a Department of Conservation reserve. Aligning the wetland boundary with the property boundaries is unlikely to impact on the wetland hydrology or values.
- **Diamond Lake Wetland** - The ecological assessment by Wildland Consultants confirmed the presence of **RSW value A1** in Diamond Lake Wetland and found the proposed wetland boundary contained areas that were not wetland.¹⁰
- **Glenorchy Lagoon Wetland** - Based on information provided to the ORC by a submitter it is appropriate to extend the boundary of Glenorchy Lagoon Wetland to include additional wetland areas.
- **Lake Reid Wetland** - The Wildland Consultant found that the proposed wetland boundary of Lake Reid Wetland contained areas that were not wetland. He also indicated the likely presence of **RSW value A5** and **RSW value A9** in the wetland.¹¹
- **Pleasant River Estuary Wetland Complex** - A site visit by an ORC staff member found the proposed wetland boundary contained areas that are not wetland, and also found areas abutting the boundary that are wetland. The boundary should exclude areas below MHWS.
- **Stirling Marsh Complex** - The Wildland Consultant indicated the presence of **RSW value A5** in this wetland, and did not recommend any changes to the proposed wetland boundary.¹²
- **Three Stones Fen Complex** - A site visit by an ORC staff member found the proposed wetland boundary included two tracks that were not wetland areas. Drains within the proposed wetland boundary are an integral part of the wetland system and can influence the wetland's water level and all other values that depend upon the wetland's hydrology. The issue of drain maintenance is addressed through the amendments we recommended

⁹ Wildland Consultants (2012) and *Ecological Assessment of Akatore Creek Swamp*.

¹⁰ Wildland Consultants (2011) *Ecological Evaluation of Seven Wetlands in relation to proposed Plan Change 2, Regional Plan: Water for Otago*, pp.9-10.

¹¹ *Ibid.*, pp.11-12.

¹² *Ibid.*, pp.4-6.

(see section 2.2 – Priority on avoiding adverse effects; section 2.4 – Taking and use of surface water; section 2.6 Damming and diversion of water; and section 2.9 – Alteration of Regionally Significant Wetlands).

- **Upper Taieri Wetlands Complex** - A site visit by an ORC staff member and additional ecological assessment information provided by a submitter found the proposed wetland boundary included areas in pasture that are not wetland areas.
- **Waipori/Waihola Wetland Complex** - A site visit by an ORC staff member found the proposed wetland boundary included a pump station, floodbank and drain which are not wetland areas. Including these areas within the wetland boundary could unnecessarily restrain certain activities needed to assure the effectiveness of the drain and these structures in mitigating floods.
- **Big Boggy Swamp, Dingle Lagoon, and Makarora Flat Swamp Complex** - The boundaries of these wetlands should not be amended as the requested amendments reflect cadastral boundaries rather than the boundaries of actual wetlands.
- **Flat Top Hill Ephemeral Wetlands** - There is insufficient evidence that supports the need for adjusting the wetland boundary.
- There is no need to amend the boundaries of any wetland other than those discussed above. We are satisfied that the remaining wetlands have been adequately and accurately mapped.

3.3 Map quality

F-series of maps in the Regional Plan: Water for Otago Maps

Plan Change 2 reference: R199 (Water Plan Maps F1-F68)

Summary of Decisions Requested: pages 119-120

Maps must be accurate and sufficiently certain for landowners and ORC alike to understand how and where Plan provisions apply. Plan Change 2 uses the same format of maps for the delineation and location of RSWs as used elsewhere in the Plan, but refines the boundaries of these wetlands through a combination of aerial and Landsat satellite imagery analysis, expert opinion and on-the-ground visits.

We considered the submissions and recommend the following:

- a) Retain the map format as proposed.

Reasons for recommendation:

- The maps included in the proposed new F-series of the Maps to the Water Plan are presented as a topographical background to help the reader locate the wetland easily.
- Plan maps are technically accurate and GIS data is able to be exchanged with other GIS users.
- Supporting information, such as aerial photographs, can be found in the Inventory or can be obtained from Council upon request.

3.4 Schedule 10 and non-Regionally Significant Wetlands

Schedule 10, G-series of maps in the Regional Plan: Water for Otago Maps

*Plan Change 2 reference: R015 (page 13), R028 (page 18), R064 (page 37), R132 (page 67), R600 (pages 115-118)
Summary of Decisions Requested: pages 120-121*

Schedule 10 and all references to it are removed from the Plan. The wetlands listed in it have been assessed, and those with RSW values are included in Schedule 9.

We considered the submissions and recommend the following:

- a) Delete Schedule 10, and all references to it, as proposed.
- b) Delete the G-series of maps in the Regional Plan: Water for Otago Maps

Reasons for recommendation:

- The wetlands listed in Schedule 10 have been assessed, and where they contain one or more RSW values they have been included in Schedule 9 and the proposed new F-series of the Maps to the Water Plan.
- Alternative options must be considered to address the cumulative effects of wetland loss, including the need for a separate plan change.
- As discussed in section 2.11 – Further wetland protection, a separate plan change is needed to include any wetland that in the Plan that is not already identified in this proposed plan change.

Chapter 4: Recommendations on promotion and funding

This chapter addresses non-regulatory methods that could be utilised to maintain or enhance Otago's RSWs.

4.1 Promotion of wetlands

Policy 10.4.6

Plan Change 2 reference: R014 (pages 12-13)

Summary of Decisions Requested: pages 135-136

Policy 10.4.6 promotes the conservation, creation and enhancement of wetlands and their values through a variety of listed methods. Plan Change 2 adds wetland monitoring and providing wetland information to the list of methods.

We considered the submissions and recommend recognising the value of fencing wetlands, as follows:

a) Amend 10.4.6 as follows :

To promote the conservation, creation and reinstatement of wetland areas and enhancement of individual and collective wetland values by:

- (a) Educating Otago's people and communities about land use activities that may ~~result in the loss of~~ affect wetlands and their values;
- (b) Promoting the fencing of wetlands;
- (~~b~~c) Initiating or supporting investigations and monitoring of wetlands and their values;
- (~~e~~d) Supporting voluntary community and landholder programmes; ~~or~~
- (~~e~~e) Initiating or undertaking works in consultation with local communities; or
- (~~e~~f) Providing information on wetlands and their values.

Reasons for recommendation:

- Policy 10.4.6 states ORC's general wetland promotion philosophy, and is in line with Objective 10.3.1.
- Fencing can be an important tool in wetland conservation.
- This policy allows all or any of the different methods to be used simultaneously in order to promote wetland values.
- The use of broad concepts such as "values" is more effective in promoting all of Otago's wetlands, rather than using terms such as "ecosystem services".

4.2 Funding and assistance

Plan Change 2 reference: R148 (Funding)

Summary of Decisions Requested: pages 136-137

Six submitters discuss the need for financial support, compensation, and assistance with weed control.

We considered the submissions and recommend the following:

- a) Make no amendment to the Plan regarding funding.

Reasons for recommendation:

- The proposed changes to the wetland policy and rule framework are necessary in order to better protect Otago's remaining RSWs. The rules provide for a range of permitted activities, or the option of applying for consent.
- The annual plan process under the Local Government Act 2002, is used to set consent fees, not the RMA.

Note: Plan Change 2 may result in opportunity costs, and costs associated with consenting for property owners. However, the RMA (Section 85) states property owners have no automatic right to compensation if their property interests are affected.

Chapter 5: Recommendations on general issues

This chapter addresses the proposed removal of certain Plan provisions for streamlining and simplifying. It also makes recommendations on minor and consequential changes, general support and opposition, and the adoption of the Plan Change 2.

5.1 RMA streamlining and simplifying

Chapters 10, 15 and 16

*Plan Change 2 reference: R001 – R020 (page 6-14), , R127 – R130 (pages 74), R1131 and R132 (page 76)
Summary of Decisions Requested: page 55, page 58, pages 61-65, page 141, pages 137-138*

5.1.1. Overview

Plan Change 2 aims to simplify the plan and make it easier to use by removing non-mandatory provisions from Chapters 10, 15 and 16. This streamlining is allowed under the RMA.

We considered the submissions and recommend the following:

- a) Delete the introduction, issues, explanations, principal reasons for adopting, anticipated environmental results and cross-references from Chapter 10 as proposed.
- b) Delete Method 15.4.3, and Information Requirements 16.3.11 and 16.3.12 as proposed.

Reasons for recommendation:

- Removing these provisions will simplify the Plan, and remove ambiguity.
- There is now a greater understanding of plans under the RMA which means there is no need for additional contextual information.
- Objective and policies give sufficient direction for consenting processes.
- The online Inventory will provide the public with better, up-to-date and responsive information about RSWs, including information on threats to values if held by ORC.
- Provision of education and information will continue, but ORC financial commitments are managed through Local Government Act 2002 processes.
- Details of the information required for consent applicants are in the consent application form and do not need to be repeated in the Water Plan.

5.2 Minor and consequential changes

Relates to various plan provisions

*Plan Change 2 reference: R143 (page 123), 157 (Drain maintenance)
Summary of Decisions Requested: pages 109-110, 141-142*

Plan Change 2 proposes a number of minor and consequential changes, including changes to the numbering of the wetlands, the Plan's title page, page numbering, and headers and footers.

We considered the submissions and recommend the following:

- a) Make any consequential amendments necessary to give effect to proposed or recommended changes.
- b) Correct the non-notification and non-service clauses of Rules 12.1.3.1, 12.2.2A.1, 12.2.3.4, 13.2.2.1, 13.3.2.1, 13.4.2.1, and 13.7.2.1 as shown below:

~~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.~~

The Consent Authority is precluded from giving public notification and limited notification of an application for a resource consent under this rule

- c) Correct the non-notification and non-service clause of Rule 12.1.4.8, as follows:

(a) ~~For Applications for resource consent to which this Rule applies, to take and use water from a river, the Consent Authority is precluded from giving public notification and limited notification 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,~~ if the application is to take and use water from:

- (i) A river for which a minimum flow has been set by or under this Plan; or
- (ii) A river for which it is not necessary for the Council to consider whether, if consent is granted, the taking should be subject to a condition requiring a residual flow to remain in the river at the point of take, or a condition requiring other provision for native fish, other than a condition requiring fish screening.

Other applications for resource consent to take and use water from a river may be considered without notification ~~as allowed by the Resource Management Act under Section 93 of the Resource Management Act in those circumstances in which the Act allows applications to be considered on a non-notified basis.~~

(b) ~~For Applications for resource consent to which this rule applies, to take and use water from a water body other than a river, the Consent Authority is precluded from giving public notification and limited notification 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.~~

- d) Amend note box at 13.3.1 as follows:

Note: ~~Any alteration of the bed of a lake or river, or of any wetland identified in Schedule 9 or any Regionally Significant Wetland,~~ in association with the following activities must also comply with Rules under 13.5 in order to be classified as a permitted activity.

- e) Correct the non-notification and non-service clause of Rule 13.5.2.1, as follows:

Except in the case of extraction from the wet bed of a lake or river, or within a RSW, the Consent Authority is precluded from giving public notification and limited notification of an application for a resource consent under this rule, 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.

Reasons for recommendation:

- Consequential amendments are necessary to give effect to the changes.
- The correction to the consent notification provisions reflects amendments to the RMA, and provides for ongoing and consistent administration of the Plan.

5.3 General Support and Opposition

Plan Change 2 reference: R144 (General opposition), R145 (General support), R155 (pages 57-71), R156 (pages 15-55)

Summary of Decisions Requested: pages 87-91, pages 103-108, pages 143-144

5.3.1 Overview

Fourteen submitters generally supported Plan Change 2, and three generally opposed it.

We considered the submissions and recommend the following:

- a) Adopt the plan change as proposed in Appendix 1, and any consequential changes required to give it effect.

Reasons for recommendation:

- Plan Change 2 builds on existing provisions in the Plan for RSWs by providing better protection, and making provisions easier to read and understand.

Chapter 6: Recommendations on matters beyond the scope

This chapter evaluates submissions received considered beyond the scope of Plan Change 2.

6.1. Matters beyond the scope of Plan Change 2

Plan Change 2 reference: R152

Summary of Decisions Requested: pages 147 – 148

Seven submitters requested decisions considered beyond the scope of Plan Change 2, relating to:

- Grazing of ORC lease land, and maintenance of ORC drains.
- Controlling Reed Sweetgrass in the Taieri Plains, and adding it to the Pest Management Strategy for Otago 2009.
- Including a statement on the importance of wetlands in every consent.
- Establishing a “register of interested people to be notified of all consent applications”.
- Establishing a process that would inform interested parties of any new activity (permitted or consented) in or near the catchment of a RSW.
- Gaining commitment from ORC for addressing cumulative effects in the future.
- Placing hydrological information on ORC’s website, including the level of Lake Mahinerangi.
- Adding criteria to Schedule 1, applicable to all wetland areas, on the value of existing land transport networks.

The purpose of this plan change is to build on existing provisions for Regionally Significant Wetlands. Giving consideration to these matters would require some action unrelated to the Water Plan; a variation, or new plan change (to ensure persons potentially affected by these matters are consulted and heard).

We recommend that these submissions be rejected as beyond the scope of the proposed plan change.

Annexure C

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