

# Proposed Plan Change 2

(Regionally Significant Wetlands)

## Section 32 Report

Summary of alternatives, benefits and costs



Regional Plan: **Water for Otago**

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## Glossary and abbreviations used in this report

ORC	Otago Regional Council
Proposed Plan Change 1C	Proposed Plan Change 1C (Water Allocation and Use) to the Regional Plan: Water for Otago
Proposed Plan Change 2	Proposed Plan Change 2 (Regionally Significant Wetlands) to the Regional Plan: Water for Otago
RMA	Resource Management Act 1991
Water Plan	Regional Plan: Water for Otago
Water Plan maps	Regional Plan: Water for Otago Maps
Values	Values of Regionally Significant Wetlands as listed in Policy 10.4.1 of Proposed Plan Change 2

Note: This Section 32 Report should be read in conjunction with Proposed Plan Change 2 (Regionally Significant Wetlands) to the Regional Plan: Water for Otago.

# 1 Introduction

This report summarises the alternatives, benefits and costs considered as part of the assessment of Proposed Plan Change 2 (Regionally Significant Wetlands) to the Regional Plan: Water for Otago (Water Plan), as required by Section 32 of the Resource Management Act 1991 (RMA). It should be read in conjunction with the Proposed Plan Change 2 (Regionally Significant Wetlands).

Proposed Plan Change 2 builds on existing provisions for Regionally Significant Wetlands by:

- Protecting more wetlands that are regionally significant,
- Strengthening protection for regionally significant wetlands,
- Making provisions easier to read and understand, and
- Providing better wetland information

## 2 Background

### 2.1 Wetlands, wetland values and threats

Located at the interface of land and water, wetland areas are places of low drainage where water accumulates and are often characterised by a unique fauna and flora. The RMA defines a wetland as

*Includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.*

Long considered as “waste land”, wetlands in Otago are now increasingly recognised for the values they support and the services they provide to the region, individually and collectively.

Regionally significant wetland values are those attributes that make a wetland particularly special, such as its habitat (for threatened or indigenous species, or waterfowl), value to Kai Tahu, important hydrological function, or scarcity in the region. Services that wetlands provide to the community include:

- Regulating water quantity (including flood mitigation, groundwater replenishment and supplementing low river flows)
- Regulating water quality (including sediment and nutrient retention, and water purification)
- Habitat for wetland fauna and flora (including stop-over sites for migratory birds and habitat corridors)
- Kai Tahu cultural and spiritual beliefs and uses
- Cultural activities, including recreation and education
- Carbon capture and storage, and
- Natural character

Despite the growing public recognition of the importance of wetlands in maintaining the health of our environment, Otago’s wetlands and their values and services continue to be at risk of degradation or loss due to the inappropriate use of land and water (e.g. cultivation, damming, drainage, vegetation clearance, and recreational activities) or the processes influenced by these uses (e.g. siltation, exotic invasion, and eutrophication (too many nutrients)).

## 2.2 Wetlands and the Regional Plan: Water for Otago

The Water Plan was made operative on 1 January 2004 and mainly addresses wetlands in four areas:

### Chapter 10: Wetlands

Chapter 10 consists of the issues, objectives and policies related to wetlands.

### Chapter 12: Water Take, Use and Management & Chapter 13: Land Use on Lake or River Beds

Chapters 12 and 13 contain over twenty rules relating to the management and protection of wetlands in Otago. The majority of these rules specifically relate to Schedule 9, or Type A or Type B values, including those for the discharge of contaminants to water and the taking, diversion or damming of water. Only two rules relate to Schedule 10 wetlands and address land drainage.

### Schedule 9: Schedule of Significant Wetlands

Significant wetlands were identified in 1997-98 and listed in Schedule 9 of the Water Plan. They were assessed for Type A (irreplaceable) and Type B (replaceable) values. Schedule 9 wetlands are mapped in the F-series of the Water Plan maps.

### Schedule 10: Schedule of Additional Wetlands

Schedule 10 was introduced through the appeal process when the original Water Plan was notified, as a number of wetlands were considered significant but had not been assessed for Type A or Type B values. At that time, ORC made a commitment to undertake the assessment and amend the Water Plan accordingly. Schedule 10 wetlands are identified only as points on a map in the G-series of the Water Plan maps.

In 2008, ORC staff evaluated the wetland-related provisions of the operative Water Plan, under Section 35(2) of the RMA. The following issues were identified:

- Mapping:
  - Schedule 9 maps are inaccurate on the ground;
  - Schedule 9 maps overlap with the coastal marine area;
  - Schedule 10 wetlands shown by points on a map are insufficient for enforcement.
- Schedule 9 values information:
  - The values listed in the Water Plan are not exhaustive but have been interpreted as such;
  - Values information is an incomplete and static assessment from a point in time;
  - A plan change is required to alter any information in the Water Plan.
- Policies and rules:
  - These are inconsistent and unnecessarily complex;
  - There are a few instances where current rules have not protected a wetland.
- Other issues:
  - A need for monitoring of wetland condition;
  - Increased land-use degradation of wetlands;
  - Cumulative effects of wetland loss.

### **3 Public consultation**

In developing the proposed plan change over the past two years, ORC has undertaken consultation around Otago with affected landowners and occupiers, the wider public, statutory bodies, agencies and territorial authorities. A first round of consultation began in April 2009 when the ORC hosted four meetings around Otago with landowners and occupiers to discuss possible changes to the Water Plan and listen to people's views. The meetings, which attracted 85 people, were held in Palmerston, Ranfurly, Balclutha and Queenstown. A fifth meeting between the ORC, Otago's territorial authorities and various statutory bodies was held in the same period in Dunedin.

Following the release of the Consultation Draft in August 2010 a second consultation round was undertaken. Four more public meetings were held for all members of the public, landowners, and other agencies to share their views on the proposed changes to the Water Plan as outlined in the Consultation Draft. Around 100 people attended these meetings held in Waikouaiti, Clinton, Ranfurly and Cromwell. Written comments on the consultation draft were received by 102 individuals and agencies, spanning 261 individual points.

In response to requests by landholders, 113 field visits were undertaken by ORC staff between April 2009 and April 2011 to staff to further refine the wetland areas. An additional four visits were carried out by a contracted ecologist where the existence of regionally significant wetland values was queried.

### **4 Section 32 evaluation**

Section 32 of the RMA requires the consideration of alternatives and assessment of the benefits and costs of adopting any objective, policy, rule, or method in the Regional Plan: Water for Otago. The following sections discuss the costs and benefits of the options considered and provide a more detailed analysis of the preferred option.

#### **4.1 Overview of options**

The following options were considered in developing the proposed plan change:

##### **Option 1: Status quo**

This option continues the management of wetlands of Otago in line with the current provisions of the Water Plan. No changes to the provisions of the Water Plan are proposed.

##### **Option 2: Maps and schedules**

This option addresses the issues relating to the mapping and scheduling of regionally significant wetlands. More specifically, this option proposes to:

- Transfer Schedule 10 wetlands (and newly identified wetlands) that contain values to Schedule 9 and introduce maps for these
- Remove Schedule 10 wetlands that do not contain values from the Water Plan and remove Schedule 10 and all references to it from the Water Plan, and
- Refine mapped areas of Schedules 9 wetlands.

##### **Option 3: Maps and schedules, and review**

This option makes the changes to mapping and schedules described in option 2 and reviews the plan's provisions in relation to regionally significant wetlands. More specifically, this option proposes to:

- Undertake those actions described in option 2

- Remove all values information and wetland descriptions from the Water Plan and place in a separate, non-regulatory inventory of wetlands
- Consolidate the wetland-related provisions in the Water Plan and improve their consistency
- Strengthen protection for regionally significant wetlands and values and extending provisions to include other activities that damage wetlands, and
- Treat wetlands higher than 800m above sea level identically to other regionally significant wetlands

#### **Option 4: Maps and schedules, review, and cumulative effects**

This option builds on those actions described in options 2 and 3, and addresses issues relating to the cumulative effect of wetland loss. This option proposes to:

- Undertake those actions described in options 2 and 3, and
- Address issues relating to the cumulative effect of wetland loss

## **4.2 Analysis of options**

The table below provides an overview of the benefits and costs/risks associated with the four Options.

		1 Status quo	2 Maps and schedules	3 M&S + review	4 M&S + review + CEffects
<b>BENEFITS</b>	No plan change cost	+			
	Business as usual regarding land-use limits for landowners	+			
	Increased protection for regionally significant wetlands		+	++	++
	Greater certainty of provisions from more accurate mapping of wetlands		+	+	+
	Sch. 10 wetlands receive similar protection to Sch. 9 wetlands, as intended when Water Plan was made operative		+	+	+
	Plan more easily understood and implemented		+	++	++
	New wetlands with regionally significant wetland values receive similar protection to Sch. 9 wetlands			+	+
	Greater consistency between rules and their application			+	+
	High-altitude significant wetlands treated identically to other regionally significant wetlands			+	+
	Wetland inventory makes current information available to the public and is easy to update			+	+
	Addresses the cumulative effect of the incremental loss of wetlands and the services they provide				+
<b>COSTS/RISKS</b>	Onus on ORC to identify values in Sch.9 wetlands	-			
	Onus on landowner to identify values in Sch.10 wetlands	-			
	Uncertainty of wetland extents	-			
	Cost of plan change		-	-	-
	Change in land management practices for some land owners/occupiers		-	-	-
	Cost to ORC of maintaining wetland inventory			-	-
	Additional cost and delay to prepare sufficiently robust new provisions for cumulative effects				--
	Wetlands with regionally significant values may be lost or degraded due to lack of controls or inconsistent application	Risk	Lower risk	Lower risk	Lower risk
	Rules may be inappropriately applied as maps are not accurate enough	Risk	Lower risk	Lower risk	Lower risk
	Some wetlands with regionally significant values may not be identified and protected	Risk	Lower risk	Lower risk	Lower risk
	Mitigation measures may not satisfactorily replace regionally significant wetlands or regionally significant wetland values.	Risk	Risk	Lower risk	Lower risk
Confusion as to which provisions apply where a regionally significant wetland is also a coastal protection area (in Coast Plan)	Risk	Risk	Risk	Risk	

### 4.3 Proposed Option

Option 3 is recommended for the following reasons:

- Option 3 is an appropriate and effective way of changing the Water Plan in a manner that allows for better achieving the Plan's objectives (particularly Objective 10.3.1)
- The option enables a wide range of improvements to be made to better protect regionally significant wetlands, and
- It is more appropriate to address the issue of cumulative effects of wetlands through a separate process (future plan change and changes to the Regional Policy Statement). This issue is highly complex and will require further work.

### 4.4 Detailed analysis of the preferred Option

Option 3 proposes Objective 10.3.1 to state "*Otago's wetlands and their values and services will be maintained or enhanced.*"

The amended Objective 10.3.1 addresses the continued risk of loss or degradation of wetlands, their values and the services they provide to the community. Amended Objective 10.3.1 is considered to be appropriate for the following reasons:

- Relevancy: The proposed objective is relevant to the matters raised in sections 5(2) (a), (b) and (b) of the RMA.
- Usefulness: The proposed objective sets out a measureable outcome and provides guidance for both decision-making and evaluation of policy effectiveness.
- Achievability: The proposed objective is achievable within the powers and function of the RMA.
- Reasonableness: The proposed objective recognises the burden of costs and the section 5 obligation to enable social and economic well-being.

The various other parts of Option 3 can be placed under one of the main areas outlined below.

- A Better wetland information: mapping**
- B Better wetland information: a wetland inventory for Otago**
- C More regionally significant wetlands protected**
- D Stronger protection for regionally significant wetlands**
- E An easier plan to read and use: simplifying and streamlining**
- F An easier plan to read and use: removal of wetlands from schedules**



## A Better wetland information: mapping

### **Explanation**

Refined mapping is proposed for current and proposed Schedule 9 wetlands. This mapping has been developed through a combination of aerial and Landsat satellite imagery analysis, expert opinion and on-the-ground field visits.

The current Schedule 9 wetland extents were defined prior to the Water Plan's notification in 1998 and were largely based on topographical maps. Since then, a number of inaccuracies have become evident. The provisions in the Water Plan often rely on the mapped areas of wetland and so these maps must be accurate and sufficiently certain for landowners and Council alike.

Current Schedule 10 wetlands are indicated coarsely by a dot on a large-scale map, which makes it difficult to determine where the wetland is on the ground and what area it covers. Those wetlands that are proposed to be included in Schedule 9 (see section C, "More regionally significant wetlands protected"), including newly identified wetlands, have been mapped similarly to the refined mapping proposed for current Schedule 9 wetlands.

### **Benefits**

- For Schedule 9 wetlands, addresses acknowledged inaccuracies and provides greater certainty of wetland area to landowners/occupiers, the public and ORC.
- For Schedule 10 wetlands, eliminates ambiguity caused by previous location dot.
- Enables provisions requiring mapped areas to be used effectively and as intended.
- Process has allowed landowners/occupiers to be involved in determination of the wetland areas.

### **Costs**

- Cost for ORC related to the mapping of wetlands and field visits.

### **Efficiency and Effectiveness**

- Providing more refined mapping for current and proposed Schedule 9 wetlands more effectively protects wetlands while promoting efficiency by minimising ambiguity around wetland areas.

## **B Better wetland information: a wetland inventory for Otago**

### ***Explanation***

The values of the Water Plan's regionally significant wetlands are currently listed in Schedule 9. This information – determined in 1997 – is limited, potentially unreliable and cannot be updated except by plan change.

It is proposed that this information be provided, in addition with much other information on wetlands, in a separated, non-regulatory inventory of wetlands. The information in this inventory, which will be more extensive and recent than that in the Plan, will be freely accessible by all and can be updated regularly.

The protection of wetlands through the Water Plan strongly relies on the accuracy and availability of values information and wetland descriptions. For this information to be useful, the descriptions and values information must be accurate, readily available, and up-to-date. The current scheduled information on RSWs is difficult to update. Therefore, it is proposed to remove this information from Schedule 9 and include it in a separate, non-regulatory inventory.

### ***Benefits***

- Information can be updated regularly at little cost and with a wide variety of information sources.
- Promotes better understanding of wetlands in Otago, their values and services, and of indicative trends affecting these wetlands and wetland values.
- Supports decision-making and can form the basis for State of the Environment monitoring.
- Provides applicants with information that can be used as a basis for an Assessment of Environmental Effects.

### ***Costs***

- Cost for Council related to the development and distribution and regular updating of this information-only document.

### ***Efficiency and Effectiveness***

- Providing more recent, relevant and varied wetland information will more effectively allow the sustainable use and management of regionally significant wetlands.
- A single source of reliable wetland information efficiently supports the objective.

## C More regionally significant wetlands protected

<b>Explanation</b>	Seventy wetlands in Schedule 10 and twenty-four newly identified wetlands have been assessed and have been found to support regionally significant wetland values. These wetlands are proposed to be included in Schedule 9 and their maps added to the Water Plan maps (for more information on mapping, see section A, “Better wetland information: mapping”).
<b>Benefits</b>	<ul style="list-style-type: none"><li>• Better protects these wetlands and their values through provisions relating to Regionally Significant Wetlands.</li><li>• Mapped wetland areas provide more certainty for landowners, the public and ORC, particularly for Schedule 10 wetlands.</li></ul>
<b>Costs</b>	<ul style="list-style-type: none"><li>• Cost to date for wetland assessments and mapping.</li><li>• Costs of managing activities to not degrade or destroy regionally significant wetlands.</li></ul>
<b>Efficiency and Effectiveness</b>	<ul style="list-style-type: none"><li>• Protecting more Regionally Significant Wetlands provides effective and efficient progress towards maintaining and enhancing Otago’s wetlands for present and future generations.</li></ul>

## D Stronger protection for regionally significant wetlands

<b>Explanation</b>	<p>Chapters 12 and 13 currently contain rules that regulate the use, take and management of fresh water and some land use. It is proposed to amend the provisions in these chapters to ensure that:</p> <ul style="list-style-type: none"><li>• Activities unlikely to cause a negative effect for a regionally significant wetland will be permitted,</li><li>• Activities likely to degrade a regionally significant wetland or its values will require a resource consent, and</li><li>• Activities that might cause the loss of a regionally significant wetland or its values will require a resource consent (as a non-complying activity)</li></ul> <p>The rules have also been extended to include other activities that damage wetlands, such as wetland disturbance, and vegetation planting and removal.</p>
<b>Benefits</b>	<ul style="list-style-type: none"><li>• Provides for better protection of regionally significant wetlands and their values, and preserves the benefits they provide for current and future generations.</li><li>• Enables clarity regarding what activities and effects are permitted.</li></ul>
<b>Costs</b>	<ul style="list-style-type: none"><li>• Costs of managing activities to not degrade or destroy regionally significant wetlands.</li></ul>
<b>Efficiency and Effectiveness</b>	<ul style="list-style-type: none"><li>• Providing stronger protection for regionally significant wetlands, and the values they support provides effective and efficient progress towards maintaining and enhancing Otago’s wetlands for present and future generations.</li></ul>

## **E An easier plan to read and use: simplifying and streamlining**

### **Explanation**

Chapter 10 has been revised to:

- Make the policies and rules easier to read and use, and
- Align the policies with new proposed Objective 10.3.1

In order to reflect the changes to the RMA as introduced by the Resource Management (Simplifying and Streamlining) Amendment Act 2009, it is also proposed to remove from Chapter 10 the following:

- Introduction
- Issues
- Explanations
- Principal Reasons for Adopting
- Anticipated Environmental Results

Some rules and other provisions are simplified, where possible.

### **Benefits**

- A Water Plan that is easier to read and use, particularly the policies.
- Removes potential for ambiguity between policies and explanations.

### **Costs**

- Additional guidance may be required if provisions are not clear enough.

### **Efficiency and**

### **Effectiveness**

- Better alignment of wetland-related provisions with the wetland Objective (10.3.1.), and the removal of inconsistencies in the Plan, improves management of regionally significant wetlands and their values.
- The consolidation of the Plan's wetland-related provisions allows for greater efficiency in the decision making process.
- Streamlining and simplifying the wetland provisions provides effective and efficient progress towards maintaining and enhancing Otago's wetlands for present and future generations.

## **F An easier plan to read and use: removal of wetlands from schedules**

### **Explanation**

Thirty-six wetlands are proposed to be removed from the Water Plan's schedules: 34 from Schedule 10 and two from Schedule 9.

Ecological assessments determined that these 34 wetlands listed in Schedule 10 were in fact not wetlands or were not deemed regionally significant. As all other Schedule 10 wetlands are proposed to be included in Schedule 9, Schedule 10 and all references to it are proposed to be removed from the Plan.

Two wetlands – Southern Garvie Mountains Wetland Management Area and Nevis Plateau Wetland Management Area – are being removed from Schedule 9 as they are not mapped and are higher than 800 metres above sea level, and therefore received identical protection in the Plan.

**Benefits**

- Provides certainty to landowners/occupiers, the public and ORC.
- Removes restrictions currently imposed on owners and occupiers of land with Schedule 10 wetlands that are not deemed to be regionally significant.
- Improves consistency and reduces the complexity of the Plan.

**Costs**

- Costs for Council related to values assessments

**Efficiency and Effectiveness**

- The reduction in ambiguity achieved by wetlands from schedule 9 immediately increases the efficiency of the plan in protecting regionally significant wetlands.
- It removes inappropriate protection of non-significant wetlands, .Provides individual land holders and communities with better opportunities for the sustainable development and use of wetland areas with no identified RSW values.
- Streamlining and simplifying the wetland provisions provides effective and efficient progress towards maintaining and enhancing Otago's wetlands for present and future generations.

## 5 Conclusion

Proposed Plan Change 2 (Regionally Significant Wetlands) enables the ORC to better manage the region's wetland resources, now and for the future. This report identifies that the preferred option is to undertake Option 3: Maps and schedules, and review. This report meets the requirements of Section 32 of the RMA.

## 6 Supporting information

- Landcare Research, "Wetland Mapping in the Otago Region," Report LC0608/115, prepared for Otago Regional Council, April 2008
- Minister of Conservation v Otago Regional Council, C131/02
- Otago Regional Council, Boggy Treasures: Otago's wetlands inventory (unpublished)
- Otago Regional Council, Regional Plan: Water for Otago
- Otago Regional Council, Report 2011/0835, "Notification of Proposed Plan Change 2: Regionally Significant Wetlands to the Regional Plan: Water for Otago"
- Otago Regional Council, Report 2010/1568, "Notification of Proposed Plan Change 2: Regionally Significant Wetlands to the Regional Plan: Water for Otago"
- Otago Regional Council, Report 2009/071, "Proposed Plan Change 2 (Wetlands) to the Regional Plan: Water for Otago"
- Otago Regional Council, Report 2008/248, "Wetlands mapping and classification"
- Wildland Consultants, "Ecological Evaluation of Wetlands in South Otago and Central Otago," Report 2656, prepared for Otago Regional Council, March 2011