

**BEFORE THE ENVIRONMENT COURT  
AT CHRISTCHURCH**

	<b>ENV-</b>
<b>IN THE MATTER</b>	of the Resource Management Act 1991
<b>AND</b>	
<b>IN THE MATTER</b>	of an appeal under schedule 1, clause 14 of the Act
<b>BETWEEN</b>	<b>OTAGO FISH AND GAME COUNCIL</b>
	<b>Appellant</b>
<b>AND</b>	<b>OTAGO REGIONAL COUNCIL</b>
	<b>Respondent</b>

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**NOTICE OF APPEAL ON THE REGIONAL PLAN: WATER FOR OTAGO -  
PROPOSED PLAN CHANGE 6A**

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**TO:** The Registrar  
Environment Court  
Christchurch

1. The Otago Fish and Game Council appeal against a decision of the Otago Regional Council on the following plan change:
  - a. Proposed Plan Change 6A (Water Quality) ("the Proposed Plan").
2. The Otago Fish and Game Council made a submission and further submission on that plan change.
3. The Otago Fish and Game Council received notice of the decision on 20 April 2013.
4. The decision was made by the Otago Regional Council.
5. The Otago Fish and Game Council is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
6. The parts of the decision appealed, reasons and relief sought are:

#### **PART 7 OF THE PROPOSED PLAN – WATER QUALITY**

7. **Appeal Point A:** The decision not to be explicit that water quality, where it is degraded, should be enhanced back to the "good" Schedule 15 limits and that water quality above the Schedule 15 limits should be maintained at that high standard, in Objective 7.A.1.

8. **Reason:** Schedule 15 of the Proposed Plan sets out the limits that effectively deliver "good" water quality in the Otago Region. As such, appropriate objectives, policies and rules should refer explicitly to that Schedule so that its role and function in the regulatory framework is clear.
9. As it currently stands, the wording in Objective 7.A.1 may be interpreted such that only small levels of enhancement may suffice, rather than enhancing water to a level that can be considered "good" in accordance with the limits that denote good water quality in Schedule 15. The Objective should explicitly direct that where water quality is at, or higher than the limits set in Schedule 15, it should be maintained at those high standards.
10. **Relief:** The amendment of Objective 7.A.1 to read:  
*Objective 7.A.1 To maintain water quality in Otago lakes, rivers, wetlands, and groundwater when it is at and above the Schedule 15 limits, but and enhance water quality where it is degraded so that it achieves Schedule 15 limits.*
11. **Appeal Point B:** The decision in respect of Objective 7.A.2 to only require maintenance of water quality.
12. **Reason:** The wording in Objective 7.A.2 may be interpreted such that water quality is to be maintained at its current level. In some water bodies, quality may be at a level that is degraded below Schedule 15 limits, and potentially that puts at risk protection of life supporting capacity. Objective 7.A.2 needs to reflect that an important objective within the Otago region is to improve, as well as maintain, water quality so that it is at a level that provides for life supporting capacity within Otago waterbodies, and where degraded is set on a trajectory of improvement towards Schedule 15 targets.
13. **Relief:** The amendment of Objective 7.A.2 to read:  
*Objective 7.A.2 To enable the discharge of water or contaminants to water or land, in a way that maintains and improves water quality at and above Schedule 15 limits, protects life supporting capacity, and supports natural and human use values.*

14. **Appeal Point C:** The decision in respect of Policy 7.B.1 to not make more explicit references to the course of action required in respect of maintaining and improving water quality with respect to Schedule 15 limits and targets.
15. **Reason:** Policy 7.B.1 is the primary policy in the plan which sets out the key methods and courses of action for maintaining and improving water quality. For this reason, The Otago Fish and Game Council consider it critically important that this policy provides appropriate and clear guidance.
16. As it currently stands, the wording in Policy 7.B.1 may be interpreted such that rivers can be downgraded from a level that is higher than Schedule 15 limits (i.e. better than "good") down to those limits. The Otago Fish and Game Council has concerns that this may lead to a degradation of water quality that is excellent in many places. The policy wording does not give final effect to the Decision in this regard. The Decision held:
- Pp. 13 "The purpose of Schedule 15 has been further clarified in amended Policy 7.B.1. Where existing water quality is better than Schedule 15 it will be maintained at that standard".*
17. The Otago Fish and Game Council consider that the wording of Policy 7.B.1 needs to be amended. The policy needs to explicitly state that the Otago Regional Council will maintain water quality at existing levels for catchments that have water quality above the Schedule 15 standards. For this to occur, the policy needs to be more explicit. Reference to the Schedule 15 limits and dates would provide clear guidance on how water quality is to be managed and how this is to be achieved.
18. **Relief:** The amendment of Policy 7.B.1 to read:
- Policy 7.B.1      Manage the quality of water in Otago lakes, rivers, wetlands and groundwater by:*
- (a)      Recognising the differences in the effects and management of point and non-point source discharges; and*

- (b) *Defining, in Schedule 15, characteristics, ~~and standards~~ and limits that describe good quality water for each catchment in Otago; and*
- (c) *Maintaining, from the dates specified in Schedule 15, water quality at or above the Schedule 15 limits; and*
- (d) *Maintaining water quality where existing catchments have water quality that is above the Schedule 15 limits; and*
- (~~e~~) *Enhancing water quality to schedule 15 limits where it does not meet Schedule 15 ~~standards—limits~~ by the date specified in Schedule 15; and*
- (~~f~~) *Recognising discharge effects on groundwater.*

19. **Appeal Point D:** The decision in respect of Policy 7.B.7 to only "encourage" land management practices.

20. **Reason:** The Otago Fish and Game Council consider that the use of the term "encourage" in Policy 7.B.7 is insufficient. This suggests that land management practices that reduce the adverse effects on water are not mandatory. Fish and Game believe they should be, and as such, the policy should reflect this by requiring land management practices that reduce adverse effects on water quality.

21. **Relief:** The amendment of Policy 7.B.7 to read:

*Policy 7.B.7      ~~Encourage~~ Require land management practices that reduce the adverse effects of water or contaminants discharged into water.*

22. **Appeal Point E:** The absence of recognition in the Chapter 7 policies that landowners have a responsibility for monitoring the effects of their activities.

23. **Reason:** The Otago Fish and Game Council consider that Policy 7.B.8 does not have the intended effect of promoting landholder responsibility for monitoring the effects of their activities. Policy 7.B.8 as decided does not give effect to the reasoning in the Decision in this regard:

*Pp. 18 "Notified Policy 7.B.4 and new Policy 7.B.8 promote the principle that landholders are responsible for monitoring the effects of their activities on water quality. This principle is*

*also expressed through the permitted activity rule framework in section 12.C".*

24. The policies as decided do not give effect to this finding in the Decision. The Otago Fish and Game Council is of the view that landowners do have a responsibility for monitoring the effects their activities have on water quality, and this needs to be done with oversight from the Otago Regional Council in order to better facilitate landholder responsibility. The introduction of a new schedule that sets out information requirements for landholders operating under the permitted activity framework would provide more certainty. Fish and Game propose that the schedule provide for, among other things, information on stocking rates, annual yields and farm management practices undertaken which will balance the uncertainty that may eventuate due to the permitted activity status included in the Section 12 rules.
25. Without a requirement for collection and provision of comprehensive information, Fish and Game are concerned that the use of permitted activity rules and a model such as Overseer to control discharge of nitrogen and other contaminants may not be effective or enforceable.
26. **Relief:** The introduction of a new Policy 7.B.9 that reads:
- 7.B.9 Require landholders to monitor discharges and maintain records of nutrient inputs in accordance with the information requirements specified in Schedule 17.*
27. The introduction of a new Schedule 17 that sets information requirements for landholders.
- 17 Information requirements for landholders*
- Whenever activities are carried out under permitted Rules 12.B.1.5 or Rule 12.C.1.3 the following information must be provided annually to the Otago Regional Council. These parameters assist with the running of Overseer 6.0 and general assessment of agricultural operations. This information can be provided either in writing or via the ORC website:*
1. *The site area to which the farming activity relates, and*
  2. *A map or aerial photograph marked to identify the different blocks within the farm and the area in hectares of each, and*
  3. *The identification of any wetlands, watercourses, drains, and swales on or adjacent to the property, and*
  4. *Monthly stocking rates (numbers, types, and classes) including breakdown by stocking class.*

5. Annual yield of arable or horticultural produce.
6. A description of the farm management practices used on each block, including:
  - a. Ground cover – pasture, crops, fodder crops, non-grazed areas (including forestry, riparian and tree areas);
  - b. Stock management, lambing/calving/fawning dates and percentages, any purchases and sales and associated dates, types and age of stock;
  - c. Fertiliser application – types and quantities per hectare for each identified block;
  - d. Quantities and type of introduced or exported feed;
7. A description of farm animal effluent, pig farm effluent, feed pad and stand-off pad effluent management including:
  - a. Area of land used for effluent application;
  - b. Annual nitrogen loading rate and nitrogen load rate per application;
  - c. Instantaneous application rate;
  - d. Irrigation – areas, rates, monthly volumes and system type.
8. Where stock have access to rivers, lakes, or Regionally Significant Wetlands, a description of:
  - a. The number, type, and class of stock that have had access to rivers, lakes, or Regionally Significant Wetlands;
  - b. The length of time that stock have had access to rivers, lakes, or Regionally Significant Wetlands;
  - c. Measures that have been taken or will be taken in the future to limit stock access to rivers, lakes, or Regionally Significant Wetlands;
9. A description of the methods used to maintain or improve the physical and biological health, amount and condition of soils in order to minimise the movement of sediment, phosphorous and other contaminants to water.

Any environmental measures undertaken on the farm or proposed to be undertaken to improve environmental performance.

28. **Appeal Point F:** The decision of the Otago Regional Council to not recognise that a more progressive and constructive rural community environment will lead to better quality water outcomes in the Otago region, and the corresponding policy 7.D.1.
29. **Reason:** The intended effect of Policy 7.D.1 is to encourage innovation in landholder management practices throughout the Otago region. The Otago Fish and Game Council consider that this is positive, but, for effective innovation in management practices to occur, the Otago Regional Council will need to go further and foster an

environment that places good quality water as a priority. As it stands Policy 7.D.1 appears to be a very hands off approach and will unlikely be enough to change current landholder practices. The creation of an Otago-wide water quality forum may provide the impetus required for change. This will put water quality at the forefront of management and provide readily available knowledge that will easily, and painlessly, improve management practices. There are many professionals in Otago involved with water quality, and for plan change 6A to be successful, information needs to be shared.

30. **Relief:** The amendment of Policy 7.D.1 to read:

*Policy 7.D.1 Encourage innovation in management practices and the sharing of information, including by:*

(a) *Council:*

- (i) *Providing information on water quality and water quantity; and*
- (ii) *Supporting landholders in measuring or assessing contaminants in discharges; and*
- (iii) *Supporting the development of means to measure or assess contaminants in discharges; and*
- (iv) *Create a professional Otago-wide water quality forum to share information and review water quality information.*

(b) *Landholders:*

- (i) *Implementing practices that reduce the level of contaminants in discharges; and*
- (ii) *Providing relevant information to support; and*
- (iii) *Maintaining a record of information of farm performance, using the information requirements specified in Schedule 17.*

31. The addition of the following new method in Part 15 of the Proposed Plan:

15.5.2 *Creating a professional forum for the sharing of water quality information and implementation of plan change 6A*

32. **Appeal Point G:** The decision of the Otago Regional Council to not include a precondition in Policy 7.D.4 that consents will not be granted if Schedule 15 and 16 limits cannot be met over time.



33. **Reason:** The Otago Fish and Game Council consider that it is inappropriate for resource consents to be granted in situations where it cannot be established that a landholder will meet Schedule 15 and 16 limits over time. The amendment of Policy 7.D.4 to reflect this will provide the maintenance and enhancement of water quality throughout the Otago region.
34. **Relief:** The amendment of Policy 7.D.4 to read:
- Policy 7.D.4 Provide for the consenting of any discharge under section 12.C:*
- (a) *Where changes to land management practices or infrastructure have not been sufficient to meet permitted activity rules; or*
  - (b) *As part of the development of technology or innovative practices associated with improving water quality; or*
  - (c) *From a short-term activity with short-term adverse effects.*
- Only when it can be established that Schedule 15 and 16 limits will be met over time.*
35. **Appeal Point H:** The decision to not include explicit reference to Schedule 15 and 16 limits in Policy 7.D.5.
36. **Reason:** To be effective Schedule 15 and 16 limits need to be better integrated into the plan framework. This will provide for better water quality throughout the Otago region. As it currently stands, Policy 7.D.5 appears to be ineffective as there is no compliance trigger or link back to the Schedule 15 and 16 limits, which mean the effects on the limits in those Schedules will not necessarily be taken into account when considering discharges.
37. **Relief:** The amendment of Policy 7.D.5 to read:
- Policy 7.D.5 When considering any discharge under section 12.C, have regard to:*
- (a) *The effects of the discharge on the Schedule 15 water quality limits for the catchment, including cumulative effects; and*
  - (b) *The capacity for the catchment to assimilate the discharge, based on Schedule 15 limits; and*

- (bc) *A staged timeframe and management plan to achieve compliance with the permitted activity rules and Schedule 15 and 16 limits; and*
- (ed) *The extent to which the contaminants in the discharge result from the activities of the applicant; and*
- (de) *The likelihood that the staged timeframe and management plan can be successfully applied; and*
- (ef) *The current state of technical knowledge.*

38. **Appeal Point I:** The decision to not include explicit reference to Schedule 15 and 16 limits in Policy 7.D.6.

39. **Reason:** Fish and Game consider that effectively integrating the Schedule 15 and 16 limits into the plan framework will provide for better water quality throughout the Otago region. As it currently stands, Policy 7.D.6 appears to be ineffective as there is no trigger or link back to the Schedule 15 and 16 limits. This means the effects on the limits in those Schedules will not necessarily be taken into account when considering the duration of resource consents under Section 12.C.

40. **Relief:** The amendment of Policy 7.D.6 to read:

*Policy 7.D.6 When considering the duration of a resource consent under section 12.C, have regard to:*

- (a) *The staged timeframe to achieve compliance with the permitted activity rules and Schedule 16 limits;*
- (b) *The extent to which the contaminants in the discharge result from the activities of the applicant;*
- (c) *Trends in the quality of the receiving water relative to the Schedule 15 ~~standards~~ limits;*
- (d) *Any adverse effects of the discharge on the maintenance of natural and human use values;*
- (e) *The extent to which the risk of potentially significant, adverse effects arising from the activity may be adequately managed through review conditions;*
- (f) *The value of the investment in infrastructure; and*
- (g) *The use of industry best practice.*

41. **Appeal Point J:** The decision to not include reference to environmental effects in Policy 7.D.6 (g).

42. **Reason:** Industry best practice comprises methods or techniques that produce consistent, superior results. However, often, best practice relates to methods that produce the best economic outcome. For this reason, Fish and Game consider that "environmental effects" need to be explicitly stated in this policy to ensure that environmental best practice occurs.

43. **Relief:** The amendment of Policy 7.D.6 to read:

*Policy 7.D.6*      *When considering the duration of a resource consent under section 12.C, have regard to:*

...

(g)      *The use of industry best practice for managing environmental effects.*

## **PART 12 OF THE PROPOSED PLAN - WATER TAKE, USE AND MANAGEMENT**

44. **Appeal Point K:** The decision to not include a rule within section 12 that prohibits discharges into a catchment that breaches Schedule 15 limits.

45. **Reason:** Schedule 15 sets limits for what constitutes good quality water within the Otago region. These limits should be seen as a bottom line. The contaminants of most concern in this regard are nitrogen and phosphorous. Discharges of N and P into water bodies that are in breach of the N and P Schedule 15 limits after the compliance dates, or that are likely to cause a breach should not be contemplated by the planning framework.

46. **Relief:** The inclusion of a new Rule 12.C.0.4 that states:

*Rule 12.C.0.4: The discharge of nitrogen or phosphorus into a catchment that exceeds its Schedule 15 limits after its Schedule 15 catchment timeframe.*

*is a prohibited activity*

47. **Appeal Point L:** The decision not to include an exclusion in Rule 12.C.1.1 that prevents permitted activity discharges to waterbodies that exceed Schedule 15 limits.

48. **Reason:** Rule 12.C.1.1 permits the discharge of contaminants if it meets certain requirements. Currently, the rule permits discharges to waterbodies, even if that waterbody exceeds limits set down in Schedule 15. Fish and Game consider that this would be inappropriate as this would not lead to good water quality and will have the effect of further degrading water quality within the Otago region.

49. **Relief:** The amendment of Rule 12.C.1.1 to read:

*Rule 12.C.1.1 The discharge of water or any contaminant to water, or onto or into land in circumstances which may result in that contaminant entering water, is a permitted activity, providing:*

- (a) The discharge does not result in flooding, erosion, land instability or property damage; and*
- (b) There is no discharge of water from one catchment to water in another catchment; and*
- (c) The discharge does not change the water level range or hydrological function of any Regionally Significant Wetland; and*
- (d) Where the discharge first enters water in any lake, river, wetland, or any open drain or water race that flows to a lake, river or wetland, the discharge:
 
  - (1) From 01 April 2020, does not exceed the relevant limits given in Schedule 16A, when, at the representative flow monitoring site, the water flow is at or below the reference flow indicated in Schedule 16B; and*
  - (2) Does not contain sediment that results in:
 
    - a. A visual change in colour or clarity; or*
    - b. Noticeable local sedimentation,**in the receiving water; and**
  - (3) Does not have an odour, oil or grease film, scum or foam; and*
  - (4) Does not have floatable or suspended materials, other than inorganic sediment; and**
- (e) Any discharge of nitrogen also complies with Rule 12.C.1.3.*
- (f) The discharge is not into a water body that is in breach of Schedule 15 limits*

50. **Appeal Point M:** The decision to use the term "irrigation runoff" in Rule 12.C.1.2.
51. **Reason:** The purpose of this rule is to clarify the permitted discharges from dams and water races. Fish and Game consider that the term "irrigation runoff" is not wide enough in order to control effects of such discharges. The term would capture the runoff from the artificial application of water to land, but, may not capture any animal effluent runoff that may occur. For this reason, "irrigation" needs to be deleted from the wording so that the rule can have wide ranging application to contaminants from farm runoff.
52. **Relief:** The amendment of Rule 12.C.1.2 to read:
- Rule 12.C.1.2 Notwithstanding Rule 12.C.1.1, the discharge of water or any contaminant from:*
- (i) A water race that does not convey ~~irrigation~~ runoff; or*
  - (ii) A dam:*
    - (1) Permitted under Rule 13.2.1.3; and*
    - (2) Not for the purpose of the storage of contaminants,*
- to any lake, river, wetland, or any water race that flows to a lake, river or wetland, is a permitted activity, providing:*
- (a) The race or dam operator has not caused the contaminant to be discharged into the race or dam from which it is discharged; and*
  - (b) There is no discharge of water from one catchment to water in another catchment; and*
  - (c) There is no change to the water level range or hydrological function of any Regionally Significant Wetland; and*
  - (d) The discharge does not:*
    - (1) Result in flooding, erosion, land instability or property damage; and*
    - (2) Result in a conspicuous change in colour or clarity; and*
    - (3) Have floatable or suspended materials.*
53. **Appeal Point N:** Information and process requirements for permitted farming discharge rules.

54. **Reason:** Permitted rule 12.C.1.3 in respect of nitrogen discharges relies on the model "Overseer". The Overseer model assumes that the farm system is in "quasi-equilibrium", that inputs are commensurate with productivity, and users supply actual and reasonable inputs, that the correct data is inputted, and that the farm data used is "sensible". Overseer also assumes that best management practises are implemented on farm, such as stock are excluded from waterbodies and that there are no direct discharges of contaminates to waterbodies, or discharges from the base of effluent ponds, and that all codes of practise are implemented in order to avoid adverse effects.
55. It is essential that the data for Overseer needs to be collected and inputted with a high degree of rigour in order to ensure that the most accurate information from the farm system is portrayed. This means that a suitably qualified accredited nutrient advisor is an essential part of the reporting process. Without this, reliable, transparent and credible reporting of information will not be achieved. This is fundamental to any form of self-management.
56. Fish and Game's proposed new Schedule 17 that sets information requirements for permitted fertiliser and nitrogen discharges would provide more certainty in the context of a permitted activity rule. The schedule would provide for, among other things, information on stocking rates, level of stock exclusion from water, annual yields and farm management practices undertaken which will balance the uncertainty that may eventuate due to the permitted activity status included in the Section 12 rules. Without this Schedule, the uncertainty associated with determining compliance is high, and for the permitted rule to be justifiable under section 70 of the Resource Management Act 1991 is inappropriate.
57. It is also important that landholders, the Council, and the community have access to a body of information about general land performance outside of the specifics for nitrogen and phosphorus when it comes to making decisions about appropriate levels of leaching and regulatory controls. This is where the addition of a new Schedule 17 will help to guide the collection of this information.

58. **Relief:** The amendment of Rule 12.C.1.3 to read.

*Rule 12.C.1.3 The discharge of nitrogen onto or into land in circumstances which may result in nitrogen entering groundwater, is a permitted activity, providing:*

- (a) *From 01 April 2020, the nitrogen leaching rate does not exceed:*
  - (i) *10 kgN/ha/year on that area of the landholding located over the relevant Nitrogen Sensitive Zone identified in Maps H5 and H6; and*
  - (ii) *20 kgN/ha/year on that area of the landholding located over the relevant Nitrogen Sensitive Zone identified in Maps H1 to H4; and*
  - (iii) *30 kgN/ha/year on that area of the landholding located outside any Nitrogen Sensitive Zone identified in Maps H1 to H6,*

*as calculated using OVERSEER® version 6.0 by an accredited OVERSEER® version 6.0 user; and*

- (b) *From 1 May 2014, the landholder will:*
  - (i) *Maintain a record of all necessary data to run OVERSEER® version 6.0 according to the information requirements specified in Schedule 17; and*
  - (ii) *Provide Council upon request with:*
    - 1) *An OVERSEER® version 6.0 output and input parameter report prepared by an accredited OVERSEER® version 6.0 user; or*
    - 2) *All necessary data to run OVERSEER® version 6.0.*

59. The amendment of Rule 12.B.1.5 to read:

*Rule 12.B.1.5 The discharge of fertiliser onto production land, in circumstances where it may enter water, is a permitted activity, providing:*

- (a) *All reasonable measures are taken to minimise any discharge of the fertiliser to water in any water body, drain or water race, or to the coastal marine area; and*
- (b) *The discharge is carried out in accordance with the manufacturer's directions; and*
- (c) *There is no damage to fauna or New Zealand native flora, in or on any Regionally Significant Wetland; and*
- (d) *The landholder will maintain a record of farming information according to the information requirements specified in Schedule 17 in order to facilitate compliance with the permitted activity standard; and*
- (~~e~~) *Any discharge of nitrogen also complies with Rule 12.C.1.3.*

60. The addition of a new Schedule 17 as set out in Appeal Point E.

61. **Appeal Point O:** The lack of an explicit link between Rules 12.C.2.1, 12.C.2.2, 12.C.2.3 and 12.C.2.4 and the Schedule 15 and 16 limits.
62. **Reason:** Rules 12.C.2.1, 12.C.2.2, 12.C.2.3 and 12.C.2.4 do not explicitly reference the Schedule 15 and 16 limits which means there is no direct link between these rules and the limits that govern good water quality within the Otago region. Further, the Rules do not provide a framework that incentivises farmers to work toward the leaching rates set out in the permitted rules. The Otago Fish and Game Council consider that the framework associated with these rules needs to be tightened up to be truly effective. If the Rules are left as they are landholders may not actively try and reach permitted standards as they can rely on the wide exclusions in Rules 12.C.2.1 and 12.C.2.2 for restricted discretionary consent. Including a prerequisite that the restricted discretionary status is only available if Schedule 15 limits are complied with, will assist in maintaining and improving water quality at, and to those limits. Including explicit reference to Schedule 16 limits in the matters of discretion properly integrates that Schedule into the planning framework.
63. **Relief:** The amendment of Rules 12.C.2.1, 12.C.2.2 and 12.C.2.3 to read:
- Rule 12.C.2.1 The discharge of water or any contaminant:*
- (i) *To water; or*
  - (ii) *Onto or into land in circumstances which may result in that contaminant entering water,*
- is a restricted discretionary activity, unless the discharge:*
- (a) *Is prohibited by a rule in 12.C.0; or*
  - (b) *Is permitted by Rules 12.C.1.1 or 12.C.1.2; or*
  - (c) *Will result in flooding, erosion, land instability or property damage; or*
  - (d) *Is of water from one catchment to water in another catchment; or*
  - (e) *Will change the water level range or hydrological function of any Regionally Significant Wetland; or*
  - (f) *Has previously been authorised by resource consent granted under this rule; or*



- (g) Will result in a breach of the Schedule 15 limits for that catchment.

The matters to which the Council has restricted the exercise of its discretion are set out in Rule 12.C.2.4.

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

Rule 12.C.2.2 The discharge of water or any contaminant:

- (i) To water; or  
 (ii) Onto or into land in circumstances which may result in that contaminant entering water,

from a short-term activity with a short-term effect, is a restricted discretionary activity, unless the discharge:

- (a) Is prohibited by a rule in 12.C.0; or  
 (b) Is permitted by Rules 12.C.1.1 or 12.C.1.2; or  
 (c) Will result in flooding, erosion, land instability or property damage; or  
 (d) Is of water from one catchment to water in another catchment; or  
 (e) Will change the water level range or hydrological function of any Regionally Significant Wetland; or  
 (f) Will result in a breach of the Schedule 15 limits for that catchment.

The matters to which the Council has restricted the exercise of its discretion are set out in Rule 12.C.2.4.

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

Rule 12.C.2.3 The discharge of nitrogen onto or into land in circumstances which may result in nitrogen entering groundwater is a restricted discretionary activity, unless the discharge:

- (a) Is prohibited by a rule in 12.C.0; or  
 (b) Is permitted by Rule 12.C.1.3, or  
 (c) Has previously been authorised by a resource consent granted under this rule; or;  
 (d) Will result in a breach of the Schedule 15 limits for that catchment.

The matters to which the Council has restricted the exercise of its discretion are set out in Rule 12.C.2.4.

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

64. The amendment of Rule 12.C.2.4 to read:

Rule 12.C.2.4 Restricted discretionary activity discretions

*In considering any resource consent in terms of Rules 12.C.2.1 to 12.C.2.3, the Council will restrict the exercise of its discretion to:*

- (a) The nature, type, volume, frequency of the discharge; and*
- (b) The concentration and loading of contaminants in the discharge, including but not limited to compliance with Schedule 16 limits; and*
- (c) In the case of an application under Rules 12.C.2.1 and 12.C.2.3, the staged timeframe for achieving the permitted activity conditions in Rules 12.C.1.1 or 12.C.1.3; and*
- (d) In the case of an application under 12.C.2.2, the staged timeframe to address adverse effects on water quality; and.*
- (e) In the case of an application previously consented under Rule 12.C.2.2, compliance with conditions of the previous resource consent; and*
- (f) Any changes to infrastructure and the staging of implementation of those changes; and*
- (g) Any adverse effects on water quality, including cumulative effects; and*
- (h) The extent of measures to assimilate and contain nutrients, including riparian planting; and*
- (hi) Any adverse effect of the discharge on any natural or human use values; and*
- (ij) The extent to which the contaminant results from the activities of the applicant; and*
- (jk) Any effect on any Regionally Significant Wetland or on any regionally significant wetland value; and*
- (kl) Any erosion, land instability, sedimentation or property damage resulting from the discharge; and*
- (lm) Any financial contribution for any Regionally Significant Wetland or on any regionally significant wetland value; and*
- (~~mn~~) The information and monitoring requirements; and*
- (~~no~~) The duration of the resource consent; and*
- (~~op~~) The review of conditions of the resource consent.*

65. **Appeal Point P:** The total preclusion of public and limited notification in the following rules:

- Rule 12.C.2.1 Restricted discretionary activity: The discharge of water or any contaminant*
- Rule 12.C.2.2 Restricted discretionary activity: The discharge of water or any contaminant*
- Rule 12.C.2.3 Restricted discretionary activity: The discharge of nitrogen onto or into land in circumstances which may result in nitrogen entering groundwater is a restricted discretionary activity, unless the discharge:*
- Rule 13.1.2.1 Restricted discretionary activity: The use of a structure that is fixed in, on under or over the bed of any lake or river, or any Regionally Significant Wetland*

66. **Reason:** The above rules preclude the consent authority from giving public notification. The Otago Fish and Game Council have no guarantees that they will be afforded affected party status. The Otago Fish and Game Council has statutory obligations and duties under the Conservation Act 1987, the Wildlife Act 1953 to manage gamebirds, sports fish and wildlife values relevant to water bodies, as well as to advocate for the habitats of trout and salmon under section 7(h) of the Resource Management Act 1991. It should therefore be notified of any activity that may be relevant to those statutory management functions as a directly affected party.
67. **Relief:** Delete the following words from applying to rules 12.C.2.1, 12.C.2.2, 12.C.2.3 and 13.1.2.1.

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

### **PART 13 OF THE PROPOSED PLAN - LAND USE ON LAKE OR RIVER BEDS OR REGIONALLY SIGNIFICANT WETLANDS**

68. **Appeal Point Q:** The preclusion of public access in Rules 13.2.1.7 and 13.2.1.7B.
69. **Reason:** The rules, as they currently are, appear to preclude the use of installed bridges by the public. Fish and Game consider that if landholders want to build bridges on public land or riverbeds, then they should facilitate public access. But, if they wish to exclude public access, landholders should need to apply for consent and have the access issue considered in their application.
70. **Relief:** The amendment of Rules 13.2.1.7 and 13.2.1.7B to read:
- Rule 13.2.1.7 The erection or placement of any single span bridge over the bed of a lake or river, or any Regionally Significant Wetland, is a permitted activity, providing:*
- (b) *The bridge or its erection or placement, does not cause any flooding, nor cause any erosion of the bed or banks of*

*the lake or river, or Regionally Significant Wetland, or property damage; and*

- (d) *There is no reduction in the flood conveyance of the lake, river or Regionally Significant Wetland; and*
- (e) *The bridge soffit is no lower than the top of the higher river bank; and*
- (f) *The bridge and its abutments are secured against bed erosion, flood water and debris loading; and*
- (g) *Where the bridge is intended for use by stock, measures are taken to avoid animal waste entering the lake, river or Regionally Significant Wetland; and.*
- (h) *If the crossing is situated over or on public land, then public access to and across the crossing is facilitated.*

*Rule 13.2.1.7B Unless covered by Rule 13.2.1.7 or 13.2.1.7A, the erection or placement of any crossing in or on the bed of a lake or river, or any Regionally Significant Wetland, is a permitted activity, providing:*

- (a) *The crossing, or its erection or placement, does not cause any flooding, nor cause erosion of the bed or banks of the lake, river or Regionally Significant Wetland, or property damage; and*
- (b) *The top of the crossing is no higher than 2 metres above the lowest part of the bed where it is located; and*
- (c) *The crossing does not exceed 12 metres along the length of the lake or river; and*
- (ca) *No more than 24 metres of crossing occurs on any 250 metre stretch of any lake or river, with a minimum separation distance between any two crossings in or on the same lake or river of 12 metres; and*
- (d) *There is no reduction in the flood conveyance of the lake, river or Regionally Significant Wetland; and*
- (e) *The crossing and any ancillary structures are secured against bed erosion, flood water and debris loading; and*
- (f) *Fish passage is not impeded; and*
- (g) *Movement of bed material is not impeded; and*
- (h) *Where the crossing is intended for use by stock, measures are taken to avoid animal waste entering the lake, river or Regionally Significant Wetland; and.*
- (i) *If the crossing is situated over or on public land, then public access to and across the crossing is facilitated*

71. **Appeal Point R:** Rule 13.5.1.1 does not recognise that the fish spawning season may be an important consideration when looking at the effects associated with the disturbance of beds of lakes, rivers, or Regionally Significant Wetlands.

72. **Reason:** The Proposed Plan ignores the importance of a stable habitat for fish spawning. Rule 13.5.1.1 allows the disturbance of lake, wetland and river beds throughout the entire year. This may have a detrimental effect on spawning areas if undertaken at inappropriate times. There may be good reason and ability for an activity to take place during the spawning season, however, the nature of this activity can be more tightly controlled by way of resource consent.

73. **Relief:** The amendment of Rule 13.5.1.1 to read:

*Rule 13.5.1.1 The disturbance of the bed of any lake or river, or any Regionally Significant Wetland, and any resulting discharge or deposition of bed material associated with:*

(i) *The erection, placement, extension, alteration, replacement, reconstruction, repair, maintenance, demolition or removal, of any structure that is fixed in, on, under or over the bed of any lake or river, or the wetland; or*

(ii) *The clearance of debris or alluvium from within, or immediately surrounding, any structure in order to safeguard the function or structural integrity of the structure; or*

(iii) *The maintenance or reinstatement of a water intake, in order to enable the exercise of a lawful take of water,*

*is a permitted activity, providing:*

(a) *It is undertaken outside of the freshwater fish spawning season, defined as from 1 May to 31 September each year; and*

...

74. **Appeal Point S:** The decision in respect of stock access to:

a. Not include a reference to the spawning grounds of freshwater fish in Rule 13.5.1.8A.

b. Not include a policy dealing with this issue in 7.B; and

75. **Reason:** Sources of sediment, nitrogen, faecal and pathogen contamination to surface waterbodies can be appropriately managed by preventing soil erosion through excluding stock from the beds and banks of waterbodies. Damage to waterbodies affects the habitat of fauna in rivers and streams, not just wetlands.

76. **Relief:** The amendment of Rule 13.5.1.8A to read:

*Rule 13.5.1.8A The disturbance of the bed of any lake or river, or any Regionally Significant Wetland by livestock, excluding intentional driving of livestock, and any resulting discharge or deposition of bed material, is a permitted activity, providing it does not:*

- (a) *Involve feeding out; or*
- (b) *Cause or induce noticeable slumping, pugging or erosion; or*
- (c) *Result in a visual change in colour or clarity of water; or*
- (d) *Damage fauna, or New Zealand native flora, in or on any Regionally Significant Wetland; and.*
- (e) *Damage the spawning grounds of freshwater fish or the nesting grounds of indigenous birds.*

77. The introduction of a stock access policy inserted into Policy 7.B.1:

*Policy 7.B.1 Manage the quality of water in Otago lakes, rivers, wetlands and groundwater by:*

*...; and*

- (x) *Minimising the disturbance of the beds of rivers, lakes and Regionally Significant Wetlands.*

## **SCHEDULE 15 AND 16 OF THE PROPOSED PLAN**

78. **Appeal Point T:** The decision to refer to "standards", rather than "limits" in the Schedule 15 heading.
79. **Reason:** The Otago Fish and Game Council consider that the term "standard" is inappropriate to use in the Schedule 15 context. Standard imparts the notion that the numbers supplied in Schedule 15 are to be accepted as the normal or average. However, "limit", as defined in the National Policy Statement for Freshwater Management 2011 ("NPSFW"), implies that the measurements in Schedule 15 are "the maximum amount of resource use available" to allow freshwater objectives to be met. Policy A1 of the NPSFW also states that plans should set "freshwater quality limits" for all bodies of freshwater in a region.

80. **Relief:** The amendment of the Schedule 15 heading to read:  
 15 *Schedule of characteristics and ~~standards~~ limits for good quality water in Otago lakes and rivers*
81. **Appeal Point U:** The contaminant effect related to algae in Table 15.1 of Schedule 15.
82. **Reason:** Algal blooms are caused when excessive amounts of nutrients enter slow-moving bodies of water. Nutrients, such as nitrogen and phosphorous, act as fertilisers that help algae grow in water. Algae use dissolved oxygen to fuel night-time growth, when sunlight is unavailable for photosynthesis. When dissolved oxygen levels fall beneath certain levels, fish and other aquatic creatures can no longer survive. As such, algae effects all fresh water fish, not just native fish.
83. The protection of trout and salmon habitat is afforded statutory importance in section 7(h). Recognising the effect of algae on all fish is also consistent with giving effect to section 7(c) in respect of amenity values and section 7(f) in respect of the quality of the environment.
84. **Relief:** The amendment of the algae Contaminant Effect in Table 15.1:  
*Excessive nitrogen and phosphorus contribute to algal growth which has an adverse effect on ~~native~~ fresh water fish habitat, amenity and recreation values, and angling opportunities.*
85. **Appeal Point V:** The decision not to include chlorophyll  $\alpha$ , cyanobacteria, temperature, dissolved oxygen, deposited sediment, CBOD5, POM, pH, MCI and QMCI and direction for measuring compliance in Table 15.1
86. **Reason:** The Otago Fish and Game Council consider that chlorophyll  $\alpha$ , cyanobacteria, temperature, dissolved oxygen, deposited sediment,

CBOD5, POM, pH, MCI and QMCI are all important characteristics that are indicative of good water quality and that to not include limits for them would be inappropriate and reduce the plan's effectiveness. The Otago Fish and Game Council further consider that for Table 15.1 to be truly effective there must be a reference to measurement standards. The inclusion of measurement standards will provide for a clear, unequivocal test on how each particular limit is to be measured and will prevent any future confusion arising.

87. **Relief:** The amendment of Table 15.1 to read:

Table 15.1

<b>Characteristic</b>	<b>Description</b>	<b>Contaminant effect</b>	<b>Measurement standard</b>
<b>Clarity</b>	<i>When standing in knee-deep water, the bed is easily and clearly seen.</i>	<i>Sediment reduces the clarity of water, and has an adverse effect on aquatic habitats.</i>	<u><i>The monthly black disc clarity measurements taken at flows less than the median flow shall be greater than the value for each catchment in Table 15.2</i></u>
<b>Colour</b>	<i>Water-colour is not altered by contamination. Some rivers have natural colour such as tannin-stain.</i>	<i>A change in colour can be indicative of contamination by sediment or organic matter, linked to potentially high concentrations of DRP, NNN, ammoniacal nitrogen or E coli.</i>	<u><i>Visual test</i></u>
<b>Sediment</b>	<i>Riffles and runs are free of obvious clay and silt deposits. Walking across a riffle or run should not produce an obvious plume. Some rivers are naturally high in sediment.</i>	<i>Sediment affects the colour of water, and has an adverse effect on aquatic habitats, and can result in high concentrations of phosphorus, and allow E coli to persist.</i>	<u><i>Visual test</i></u>
<b>Smell</b>	<i>Water is odourless.</i>	<i>Smell can be indicative of contamination from a source high in ammoniacal nitrogen or E coli or the decay of</i>	<u><i>Smell test</i></u>



		excessive amounts of algae which limits people's opportunity to appreciate water.	
<b>Algae</b>	<p>Healthy levels of algae:</p> <ul style="list-style-type: none"> <li>▪ Do not cover more than 30% of the bed.</li> <li>▪ Strands are less than 20 mm in length.</li> <li>▪ No slime on the surface of the water.</li> </ul>	Excessive nitrogen and phosphorus contribute to algal growth which has an adverse effect on <del>native</del> fish habitat, amenity and recreation values, and angling opportunities.	<p>The 95<sup>th</sup> percentile of monthly measurements shall show that:</p> <p>a) <u>algae cover less than 30% of the bed;</u>  <u>strands are less than 20mm in length</u></p>
<b>Bank appearance</b>	<p>Functioning riparian margins:</p> <ul style="list-style-type: none"> <li>▪ Vegetation is healthy.</li> <li>▪ Banks are stable.</li> <li>▪ No obvious livestock disturbance.</li> </ul>	Healthy riparian margins mitigate sediment and nutrient discharges.	Visual test
<b>Chlorophyll a</b>	<p><u>Chl a – maintain chlorophyll a levels generally below 120 mg/m<sup>2</sup></u></p> <p><u>For upland or nationally or regionally important trout fishery and spawning streams, maintain Chla below 50mg/m<sup>2</sup></u></p> <p><u>For lowland streams, maintain Chla below 120 mg/m<sup>2</sup></u></p>	High Chl a values are indicative of excess plant growth, which reduces the life supporting capacity of the river for fish.	<p>The 95<sup>th</sup> percentile of monthly measurements shall be less than:</p> <p>a) <u>50mg/m<sup>2</sup> for upland or nationally or regionally important trout fishery and spawning streams (as defined in Schedule 1A)</u></p> <p>b) <u>120mg/m<sup>2</sup> for lowland streams.</u></p>
<b>Cyanobacteria</b>	<u>Maintain cyanobacteria bed cover percentages below 20% cover</u>	Cyanobacteria blooms are indicative of poor water quality and are hazardous to humans and animals.	<u>The 95<sup>th</sup> percentile of monthly measurements shall show less than 20% cover</u>
<b>Temperature</b>	<u>Maintain water temperature below 19°C (no greater than 2 degree change)</u>	<u>Warm temperature water is at higher risk of reduced quality</u>	<u>The 95<sup>th</sup> percentile of daily maximum temperature from 24 hour continuous monitoring shall be less than 19 degrees.</u>
<b>Dissolved Oxygen</b>	<u>Maintain a dissolved oxygen saturation level of at least 80%</u>	<u>Low levels of dissolved oxygen are harmful to aquatic life.</u>	<u>The 5<sup>th</sup> percentile of daily minimum DO saturation from 24 hour continuous monitoring shall show a saturation</u>

			<u>level of at least 80%.</u>
<u>Deposited sediment</u>	<u>Maintain fine sediment deposition on the bed surface at a level below 10% cover, no greater than 10% change from reference condition</u>	<u>High levels of deposited sediment are harmful to aquatic invertebrates that sustain higher lifeforms within rivers.</u>	<u>The three year rolling mean of annual measurements shows a deposition level at measuring sites of 10% cover with a no greater than 10% change from reference condition between sampling periods.</u>
<u>pH</u>	<u>Maintain pH between 6 and 8.5 (no greater than 0.5 change)</u>	<u>Stable pH levels reduce the worst effects of nitrogen pollution within rivers</u>	<u>The 95<sup>th</sup> percentile of monthly measurements shall be less than 8.5 and greater than 6.0, with no greater than 0.5 change between sampling periods.</u>
<u>MCI and QMCI</u>	<p><u>Maintain MCI and QMCI values of 120 and 6 respectively for catchments with Water Conservation Orders or nationally significant trout fisheries.</u></p> <p><u>Maintain MCI and QMCI values of 120 and 6 respectively for rivers with regionally significant trout fisheries.</u></p> <p><u>Maintain MCI and QMCI values of 100 and 5 for rivers with other trout fishery values.</u></p>	<u>The health of macroinvertebrate communities within rivers and lakes is directly linked to water quality.</u>	<p><u>The three year rolling mean of annual measurements for MCI and QMCI is at or above the following values:</u></p> <p>a) <u>120/6 for catchments with water conservation orders and nationally and regionally significant trout fisheries, as specified in Table 15.2.</u></p> <p>b) <u>100/5 for catchments with other trout fishery values, as specified in Table 15.2.</u></p>

88. **Appeal Point W:** The use of 80<sup>th</sup> percentile values in Schedule 15.

89. **Reason:** Fish and Game consider that the use of 5 yearly 80<sup>th</sup> percentile values is inappropriate. It has the effect of creating an 'average of averages', that may lead to water degradation throughout the Otago region.

90. **Relief:** The amendment of wording in Schedule 15 to read:

*The standards for Group 1, 2 and 3 are ~~5-year~~ monthly 80th percentile values when water flow is at or below median.*

*The standards for Groups 4 and 5 are ~~5-year~~ monthly 80th percentile values at all times.*

91. **Appeal Point X:** The decision not to include a MCI/QMCI limit in Tables 15.2.1 – 15.2.5.

**Reason:** Fish and Game consider that the use of MCI and QMCI are the most comprehensive biotic indices, based on tolerances of macro invertebrates, for measuring the health of water bodies. The MCI/QMCI setting is based on the significance of the trout fishery in rivers, using trout as an ecological barometer. Rivers that have either a Water Conservation Order, or a nationally or regionally important trout fishery require an MCI/QMCI of at least 120/6, with other rivers with trout present requiring an MCI/QMCI of at least 100/5.

92. **Relief:** The amendment of tables 15.2.1 – 15.2.5 to read:

Table 15.2.1

	<i>Nitrate-nitrite nitrogen</i>	<i>Dissolved reactive phosphorus</i>	<i>Ammoniacal nitrogen</i>	<i>Escherichia coli</i>	<i>Turbidity</i>	<i>MCI/QMCI (of at least)</i>
	<i>0.444 mg/l</i>	<i>0.026 mg/l</i>	<i>0.1 mg/l</i>	<i>260 cfu/100 ml</i>	<i>5 NTU</i>	
<i>Catlins</i>	<i>31 March 2025</i>	<i>31 March 2012</i>	<i>31 March 2012</i>	<i>31 March 2012</i>	<i>31 March 2025</i>	<i>100/5</i>
<i>Carey's Creek</i>	<i>31 March 2012</i>					<i>100/5</i>
<i>Kaikorai</i>	<i>31 March 2012</i>	<i>31 March 2012</i>	<i>31 March 2012</i>	<i>31 March 2025</i>	<i>31 March 2012</i>	<i>100/5</i>
<i>Leith</i>	<i>31 March 2025</i>	<i>31 March 2025</i>	<i>31 March 2012</i>	<i>31 March 2025</i>	<i>31 March 2012</i>	<i>100/5</i>
<i>Mokoreta (within Otago)</i>	<i>31 March 2025</i>	<i>31 March 2025</i>	<i>31 March 2012</i>	<i>31 March 2025</i>	<i>31 March 2012</i>	<i>120/6</i>
<i>Owaka</i>	<i>31 March 2025</i>	<i>31 March 2025</i>	<i>31 March 2012</i>	<i>31 March 2025</i>	<i>31 March 2025</i>	<i>100/5</i>

<b>Pomahaka</b> , downstream of Glenken	31 March 2025	31 March 2025	31 March 2012	31 March 2025	31 March 2025	<u>120/6</u>
<b>Tahakopa</b>	31 March 2012	31 March 2012	31 March 2012	31 March 2025	31 March 2025	<u>100/5</u>
<b>Tokomairiro</b>	31 March 2012	31 March 2012	31 March 2012	31 March 2025	31 March 2012	<u>100/5</u>
<b>Tuapeka</b>	31 March 2025	31 March 2012	31 March 2012	31 March 2012	31 March 2012	<u>100/5</u>
<b>Waitahuna</b>	31 March 2012	31 March 2012	31 March 2012	31 March 2025	31 March 2012	<u>100/5</u>
<b>Waitati</b>	31 March 2012	31 March 2012	31 March 2012	31 March 2025	31 March 2012	<u>100/5</u>
<b>Waiwera</b>	31 March 2025	31 March 2025	31 March 2012	31 March 2025	31 March 2012	<u>100/5</u>
Any unlisted tributary on the true right bank of the <b>Clutha/Mata- Au</b> , south of Judge Creek	31 March 2012					<u>100/5</u>
Any unlisted tributary on the true left bank of the <b>Clutha/Mata- Au</b> , south of the Tuapeka catchment						<u>100/5</u>
Any unlisted catchment that discharges to the coast, south of Taieri Mouth						<u>100/5</u>

Table 15.2.2

	<b>Nitrate- nitrite nitrogen</b>	<b>Dissolved reactive phosphorus</b>	<b>Ammoniacal nitrogen</b>	<b>Escherichia coli</b>	<b>Turbidity</b>	<b>MCI/QMCI (of at least)</b>
	<b>0.075 mg/l</b>	<b>0.01 mg/l</b>	<b>0.1 mg/l</b>	<b>260 cfu/100 ml</b>	<b>5 NTU</b>	
<b>Cardrona</b>	31 March 2012					<u>100/5</u>
<b>Clutha/Mata- Au</b> and any unlisted tributary (Luggate to mouth, including Lake Roxburgh, and excluding tributaries described in Group 1)	31 March 2025	31 March 2012	31 March 2012	31 March 2012	31 March 2025	<u>120/5</u>
<b>Fraser</b>	31 March 2012					<u>100/5</u>
<b>Kakanui</b>	31 March 2025	31 March 2025	31 March 2012	31 March 2012	31 March 2012	<u>100/5</u>
<b>Kawarau downstream</b>	31 March 2025	31 March 2012	31 March 2012	31 March 2012	31 March 2012	<u>120/6</u>

of the Shotover confluence						
<b>Lake Dunstan</b>	31 March 2012					<u>120/6</u>
<b>Lindis</b>	31 March 2025	31 March 2025	31 March 2012	31 March 2012	31 March 2012	<u>100/5</u>
<b>Luggate</b>	31 March 2012					<u>100/5</u>
<b>Manuherikia</b>	31 March 2012	31 March 2025	31 March 2012	31 March 2012	31 March 2012	<u>100/5</u>
<b>Mill Creek</b> (tributary to Lake Hayes)	31 March 2025	31 March 2012	31 March 2012	31 March 2012	31 March 2012	<u>100/5</u>
<b>Pomahaka,</b> upstream of Glenken	31 March 2012					<u>120/6</u>
<b>Shag</b>	31 March 2025	31 March 2012	31 March 2012	31 March 2012	31 March 2012	<u>120/6</u>
<b>Shotover</b>	31 March 2012	31 March 2012	31 March 2012	31 March 2012	Exempt	<u>100/5</u>
<b>Taieri</b>	31 March 2025	31 March 2025	31 March 2012	31 March 2025	31 March 2025	<u>120/6</u>
<b>Trotters</b>	31 March 2025	31 March 2012	31 March 2012	31 March 2012	31 March 2012	<u>100/5</u>
<b>Waianakarua</b>	31 March 2025	31 March 2012	31 March 2012	31 March 2012	31 March 2012	<u>100/5</u>
<b>Waikouaiti</b>	31 March 2012					<u>100/5</u>
<b>Waipori</b>						<u>100/5</u>
<b>Waitaki</b> tributaries within Otago	31 March 2025	31 March 2025	31 March 2012	31 March 2025	31 March 2012	<u>100/5</u>
Any unlisted catchment that discharges to the coast, north of Taieri Mouth	31 March 2012					<u>100/5</u>

Table 15.2.3

	<b>Nitrate-nitrite nitrogen</b>	<b>Dissolved reactive phosphorus</b>	<b>Ammoniacal nitrogen</b>	<b>Escherichia coli</b>	<b>Turbidity</b>	<b><u>MCI/QMCI (of at least)</u></b>
	<b>0.03 mg/l</b>	<b>0.005 mg/l</b>	<b>0.01 mg/l</b>	<b>10 cfu/100 ml</b>	<b>3 NTU</b>	
<b>Clutha/Mata-Au,</b> above Luggate	31 March 2012					<u>120/6</u>
<b>Dart</b>	31 March 2012	31 March 2012	31 March 2012	31 March 2012	Exempt	<u>100/5</u>
<b>Kawarau,</b> upstream of the Shotover confluence	31 March 2012					<u>120/6</u>
<b>Matukituki</b>	31 March 2025	31 March 2012	31 March 2012	31 March 2025	Exempt	<u>100/5</u>
<b>Tributaries to Lakes Hawea, Wakatipu, &amp;</b>	31 March 2012					<u>120/6</u>

Wanaka		
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Table 15.2.4

	<i>Nitrate-nitrite nitrogen</i>	<i>Dissolved reactive phosphorus</i>	<i>Ammoniacal nitrogen</i>	<i>Escherichia coli</i>	<i>Turbidity</i>	<i>MCI/QMCI (of at least)</i>
	0.55 mg/l	0.033 mg/l	0.1 mg/l	126 cfu/100 ml	5 NTU	
Lake Hayes	31 March 2012	31 March 2025	31 March 2012	31 March 2012	31 March 2012	100/5
Lake Johnson	31 March 2025	31 March 2025	31 March 2012	31 March 2012	31 March 2012	100/5
Lake Onslow	31 March 2012	31 March 2025	31 March 2012	31 March 2012	31 March 2025	100/5
Lake Tuakitoto	31 March 2025	31 March 2025	31 March 2012	31 March 2025	31 March 2025	100/5
Lake Waipori & Waihola	31 March 2025	31 March 2025	31 March 2012	31 March 2012	31 March 2025	100/5

Table 15.2.5

	<i>Nitrate-nitrite nitrogen</i>	<i>Dissolved reactive phosphorus</i>	<i>Ammoniacal nitrogen</i>	<i>Escherichia coli</i>	<i>Turbidity</i>	<i>MCI/QMCI (of at least)</i>
	0.1 mg/l	0.005mg/l	0.01 mg/l	10 cfu/100 ml	3 NTU	
Lake Hawea	31 March 2012					120/6
Lake Wakatipu	31 March 2012	31 March 2025	31 March 2012	31 March 2012	31 March 2012	120/6
Lake Wanaka	31 March 2012					120/6

## GLOSSARY

93. **Appeal Point Y:** The definition of "Animal Waste System" in the glossary.
94. **Reason:** Fish and Game consider that the definition as it currently is, may be interpreted as applying to trade and industrial processing of animals. This is not the intent and the definition should be changed to reflect this
95. **Relief:** The amendment of the "Animal Waste System" definition to read:

*Includes collection, storage, treatment, disposal or application of liquid or solid animal waste, but excludes trade waste from the processing of animals and their parts.*

## GENERAL REASONS

96. The Otago Fish and Game Council appeal is generally based on the following reasons, in addition to those specified above:
- a. The decision is inconsistent with Part 2 of the Resource Management Act 1991;
  - b. The decision is inconsistent with, and does not give effect too, the National Policy Statement for Freshwater Management 2011; and
  - c. The decision is inconsistent with, and does not give effect to, the Otago Regional Policy Statement 1998.
  - d. The decision includes permitted activity discharges that would breach Section 70 RMA requirements.

## GENERAL RELIEF

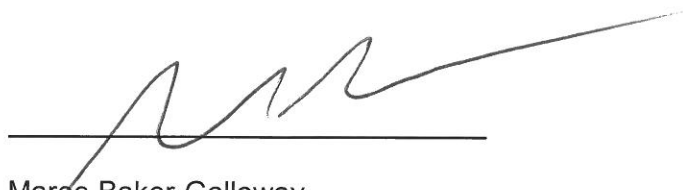
97. Fish and Game seek:
- a. Such other consequential and alternative relief as gives effect to the concerns raised in this appeal; and
  - b. Any costs incidental to this appeal.

## APPENDICES

98. The Otago Fish and Game Council attach the following documents to this notice:
- a. **Annexure 1** (a) - A copy of Otago Fish and Game Council's submission, 1 (b) Fish and Game's further submission and 1 (c) Submissions on which Fish and Game further submitted.
  - b. **Annexure 2** - A copy of the Decision
  - c. **Annexure 3** - Proposed Plan as amended by the Decision.

- d. **Annexure 4** - A list of names and addresses of persons to be served with this notice.

**DATED** this 4<sup>th</sup> day of June 2013

A handwritten signature in black ink, appearing to read 'Maree Baker-Galloway', is written over a solid horizontal line.

Maree Baker-Galloway

Counsel for Otago Fish and Game Council

**Address for service of appellant:**

Anderson Lloyd

Barristers and Solicitors

Private Bag 1959

Dunedin

Phone: 03 477 3973

Fax: 03 477 3184

Contact person: Maree Baker-Galloway



**Advice to recipients of copy of notice of appeal***How to become a party to proceedings*

If you wish to be a party to the appeal, you must lodge a notice in form 33 with the Environment Court within 15 working days after this notice was lodged with the Environment Court. 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 or inquiry*

The copy of this notice served on you does not attach a copy of the relevant application, or submission, or the relevant decision (or recommendation, or part of the decision or recommendation). These documents may be obtained, on request, from the appellant.

**Advice**

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

**Contact Details of Environment Court for Lodging Documents**

Documents may be lodged with the Environment Court by lodging them with the Registrar.

**The Christchurch Address** of the Environment Court is:

Postal:

Environment Court

P O Box 2069

Christchurch

Physical:

99-101 Cambridge Terrace

Christchurch 8013

Telephone and facsimile numbers are:

Tel: +64 3 365-0905

Tel: +64 3 353-8546

Fax: +64 3 365-1740