Written Submission on Freshwater Planning Instrument Parts of

Proposed Otago Regional Policy Statement 2021

Submissions must be received by Otago Regional Council by 3 pm Tuesday 29 November 2022

To: Otago Regional Council

1. **Name of submitter** *(full name of person/persons or organisation making the submission. Note: The submissions will be referred to by the name of the submitter)*

   McArthur Ridge Vineyard Limited and Strath Clyde Water Limited, McArthur Ridge lnvestment Group Limited and Mount Dunstan Estates Limited

2. This is a submission on the **Freshwater Planning Instrument Parts of Proposed Otago Regional Policy Statement 2021**.
3. I **~~could/~~could not** *(Select one)* gain an advantage in trade competition through this submission. (*See notes to person making submission)*
4. I **am/~~am not~~** *(Select one)* directly affected by an effect of the subject matter of the submission that
   a. adversely affects the environment; and
   b. does not relate to trade competition or the effects of trade competition (See notes to person making submission)
5. I **wish/~~do not wish~~** *(Select one)* to be heard in support of my submission
6. If others make a similar submission**, I will/~~will not~~** *(Select one)* consider presenting a joint case with them at a hearing
7. **Submitter Details**
   a. **Signature of submitter** *(or person authorised to sign on behalf of submitter)*

      b. **Signatory name, position, and organisation** *(if signatory is acting on behalf of a submitter organisation or group referred to at Point 1 above)*

      Name: Fiona Aston

      Position: Principal, Aston Consultants

      On Behalf of McArthur Ridge Vineyard Limited and Strath Clyde Water Limited, McArthur Ridge lnvestment Group Limited and Mount Dunstan Estates Limited

      c. **Date**

      29 November 2022

Address for service of submitter (*This is where all correspondence will be directed*)

   d. **Contact person** (*name and designation, if applicable*)

As above

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g. Postal address *(or alternative method of service under section 352 of the Act):*

PO Box 1435, Christchurch

8. My submission is:

Note: Supporting evidence is attached.

Column 1	Column 2	Column 3	Column 4
The **specific provisions** of the proposal that my submission relates to are:	**support** or **oppose** or **amend** the provision	The **reasons** for my views are:	I seek the following **decision** from the local authority:
SRMR-15-Freshwater demands exceeds capacity in some places Use of the term "agriculture" in the FWPI	Amend	The economic impact snapshot uses the term *"agriculture (including irrigation)"* but the term is not defined in the Interpretation section but primary production is. That defined term better captures the scope of land-based production including viticulture.	Delete the term *"Agriculture"* and replace with*" primary production".* *…contributes to human needs (urban water supply),* ~~*agriculture*~~ ***primary production*** *(including irrigation), hydro-electric…* This change in term should be implemented throughout the PORPS FWPI.
Objective LF-VM-02-(7)(b) Clutha Mata-au FMU Vision	Amend	Amend to include specific reference to the viticulture industry reflecting its significance to the Otago economy. The term defined in the PORPS is "primary production". Terms should naturally fit under that definition and not adopt one output from land-based production.	… *(b) in the Dunstan, Manuherekia and Roxburgh rohe:* *(i)…* *(ii) innovative and sustainable land and water management practices support* ~~*food*~~ ***agricultural, pastoral, horticultural and viticultural*** *production in the area and reduce discharges of nutrients and other contaminants to water bodies so that they are safe for human contact...*
Objective LF-VM-02-(8)(c) Clutha Mata-au FMU Vision	Amend	More urgency is needed to address the outcomes sought to be achieved. 2050 is 28 years away (a quarter of a century). The FWPI states that the water-short issues in the Manuherekia rohe are present now.	Amend the date by which the outcomes are to be achieved … (c) by ~~2050~~ **2035** in the Manuherekia rohe.

Objective LF–FW–O8 – Fresh water	Amend	There is a need for an objective to acknowledge the economic value in fresh water for the regional economy. Recognition of the economic value of water where used innovatively, efficiently and effectively is consistent with Principles 4(d), (e) and (f) of Te Mana o te Wai and with the hierarchy of obligations in Te Mana o te Wai where the third priority obligation is *the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.* The notified objectives do not reflect the fundamental principles or the hierarchy of obligations of Te Mana o te Wai.	Add a new Objective **(6) Innovative, efficient and effective uses of water are enabled in a manner consistent with the hierarchy of obligations in Te Mana o te Wai.**
Policy LF–FW–P7(5) – Fresh water	Support	It is important for sustainable management of the water resources of the Manuherekia rohe that over-allocation does not continue and that future decisions avoid continuing over-allocation of a scarce resource	Support … (5) existing over-allocation is phased out and future over-allocation is avoided, and…
Policy LF–FW–P7(6) – Fresh water	Support	Preference in water allocation decisions, especially in water short or over-allocated rohe, should favour uses that • employ water efficiently and innovatively, and • yield the greatest economic returns on the volumes of water used.	Support … (6) fresh water is allocated within environmental limits and used efficiently.
New Objective LF-FW-08A and new Policy LF-FW- P7A	New	The specific water needs for, and characteristics of, viticulture that is a major Otago land use and economic activity need to be addressed by the FWPI. The present policy framework is set at a high generalised level of primary production (or agriculture as notified) within which it is unclear how well the policies speak to or align with the specific needs of viticulture. Both the Hawkes Bay Regional Resource Management Plan (that includes the RPS), and the Proposed Marlborough Environment Plan (includes the RPS and regional Plans) approaches provide definite and unambiguous provisions for supporting the viticulture industry which has crop management issues unlike other primary production activities. This provides the viticulture industry with much more certainty over investment and management of their valuable resource. Potential adverse effects include severe year-on-year and seasonal impacts on a crop through an inability to provide water as part of husbandry practices and especially for frost fighting. There is also a very significant potential adverse impact on the long term viability and expansion of the wine growing industry in the region if viticulture's water needs are not specifically provided for in regional policies	New. Adopt the Proposed Marlborough Environment Plan approach to viticulture's water needs, or in a way that provides priority for viticulture. Add an additional objective and policies as below after LF-FW-08 and LF-FW-P7 ***Objective XX –To achieve efficient water use for any given activity*** ***Policy XX – When resource consent is to be granted to use water, every proposed use will be authorised by a separate water permit. Categories include municipal, irrigation, industrial, residential, commercial and frost fighting.*** ***Policy XX – To allocate water on the basis of reasonable demand given the intended use.*** ***Policy XX – Have regard to the efficiency of the proposed method of distribution and/or irrigation in determining resource consent applications to use water for irrigation purposes.*** ***Add Policy 5.7.8 – 5.7.11* from the Marlborough Environment Plan that are a suite of policies specifically directed at management of water for frost fighting purposes.**

		and the subsequent Regional Plan. It is appropriate to identify viticulture's specific needs in a Regional Policy Statement (RPS) as that directs the content of the regional Land and Water Plan (LWP). The Hawkes Bay and Marlborough approaches sit nicely within the concept of Te Mana o te Wai as it provides a framework for prioritising viticulture water use above other primary production. The focus on frost fighting addresses the Achilles heel of viticulture in part as it is the key management tool to protect crops and rootstock.	
Method LF-FW-M6 - Regional plans	Amend	A regional plan must address all elements of Te Man o te Wai including provisions that give effect to the fundamental principles or the hierarchy of obligations of Te Mana o te Wai. These include economic use of water and providing for people's well-being. The additional direction is also necessary to be consistent with LF–FW–PR3 – Principal reasons: (emphasis added) *This section of the LF chapter contains more specific direction on managing fresh water to give effect to Te Mana o te Wai and contributes to achieving the long-term freshwater visions for each FMU and rohe.*	Add a new clause **3A Enable innovative, efficient and effective uses of water in a manner consistent with the principles and hierarchy of obligations in Te Mana o te Wai.**
Method LF-FW-M6 - Regional plans	Amend	The changes sought aim to give a coherent basis for resolving over-allocation. The Otago freshwater planning framework was found to be unfit for purpose in the 2019 review by retired Judge Skelton. A key reason for this finding was Otago's failure to tackle over-allocation, especially allocation associated with deemed permits. Everyone involved in water use in Central Otago catchments like the Manuherekia is aware that resolving environmental (or minimum) flows and allocation of available water is difficult. There will inevitably be disparate views on how to 'divide a smaller pie'. A key principle is that any primary allocation should have reasonably high reliability. Simply pro-rating allocation across all existing users will leave everyone with low reliability water. Therefore, the proposed amendments to subclause 5b put reliability first. The purpose of the specific amendments sought is: 5bi. To provide an integrated approach to considering the likely effects arising from	Otago Regional Council must publicly notify a Land and Water Regional Plan no later than 31 December 2023 and, after it is made operative. maintain that regional plan to: 5. include limits on resource use that: 4… b. for water bodies that have been identified as over-allocated, provide methods and timeframes for phasing out that over-allocation that optimise reliability of primary allocation, with priority given to water uses that generally: (i) have a small environmental footprint in terms of greenhouse gas emissions, nutrient loss, sediment loss and microbial contaminant loss; (ii) use less water per hectare than other uses: (iii) provide greater economic return and associated employment per volume of water used; (iv) are able to use less water at times that coincide with seasonal low flows...

		the use of allocated water, with long-term sustainability the outcome. 5bii. To recognise water scarcity. 5biii.To optimise the economic and social benefits to the community from using a scarce resource. 5biv. To recognise that crops with non-summer water needs, such as frost-fighting, can be provided water with less impact on critical low-flow periods. Clause 3.28 NPS Freshwater requires that: (1) Every regional council must make or change its regional plans to include criteria for: (a) ... (b) Deciding how to improve and maximise the efficient allocation of water (which includes economic, technical, and dynamic efficiency). (2) Every regional council must include methods in its regional plan(s) to encourage the efficient use of water, It is therefore important that the PORPS sets out the strategic direction for the criteria that will be incorporated into Otago's new Land and Water Regional Plan in this regard.	
LF–LS–O12 – Use of land The use of land in Otago maintains soil quality and contributes to achieving environmental outcomes for fresh water	Support	It is important to for policy statements, and plans to recognise the relationship of land use and fresh water. The viticulture industry is an exemplar of innovative use of water, science-based inputs to crops and crop protection through frost-fighting, and use of technology to regulate application of water and nutrients to help achieve high quality environmental outcomes for fresh water.	Retain Objective
LF–LS–P21 – Land use and fresh water	Support	As above	Retain Policy
LF–LS–M11 – Regional plans	Support	The LWRP is a key planning control mechanism that can shape land use practices to adopt practices that reduce the risk of sediment and nutrient loss to water, and to provide for changes in land use that improve the sustainable and efficient allocation and use of fresh water.	Retain method

Attachment 1: McArthur Submission

Strath Clyde Water Limited, McArthur Ridge investment Group Limited and Mount Dunstan Estates Limited

General

1. Mount Dunstan Estates Limited (MDEL) manages 42ha of vineyard within the McArthur Ridge viticulture development. The land is managed on behalf of 13 individual landowners who either hold land in absentia or live on the vineyard. MDEL manages the landowners' grapevines, as well as another 20ha owned by McArthur Ridge lnvestment Group Ltd.

2. Every property owner within the McArthur Ridge vineyard development is a shareholder in Strath Clyde Water Limited (SCWL). MDEL has a 19% shareholdlng in SCWL and the remaining 81% is held by McArthur Ridge Vineyard Limited and McArthur Ridge lnvestment Group Limited.

3. SCWL was established to own the water infrastructure utilised by the McArthur Ridge vineyard development, and to manage water supply arrangements. The water infrastructure includes three large storage dams, extensive pumping equipment and a network of underground pipes supplying water across the development.

4. SCWL obtains water from the Manuherikia lrrigation Cooperative Society Ltd under Deemed Permit 2001.505.V1, allowing abstraction (north-east of Chatto Creek) of up to 2830 Vs and 244,512 m^3/day. The water is used for irrigation and frost fighting across the vineyard development.

The McArthur Ridge Vineyard Development

5. ln total, the McArthur Ridge vineyard development comprises 237ha of land suitable for planting in grapevines. The vineyard is Iocated on land that was originally unproductive, low capacity grazing land.

6. The vineyard now comprises 183ha planted in Pinot Noir vines, with further expansion planned.

7. The vineyard is significant in New Zealand's Pinot Noir industry, both in terms of total production and area planted in grape vines. The vineyard is about 9.5% of the total vineyard area in Central Otago and accounts for approximately 17% of the Pinot Noir crop produced in Central Otago.

8. The vineyard operation is an important contributor to the local and wider economy, through the employment of permanent and term staff; and through the purchasing of root stock, machinery, equipment and vineyard and winemaking services.

9. lt is crucial for any viticulture business, including the McArthur Ridge vineyard, to have a reliable and adequate supply of water. Water must be available throughout the viticulture year for irrigation and for frost fighting,

Attachment 2: McArthur Ridge Vineyard Limited Background

1. McArthur Ridge Vineyard Limited (**MRVL**) owns and operates a significant part of the McArthur Ridge vineyard development, which is located in Springvale Road and McArthur Road, Alexander.

2. In total, the vineyard development comprises 237ha of land suitable for planting in grapevines. The vineyard is located on land that was originally unproductive, low capacity grazing land.

3. The vineyard now comprises 183ha planted in Pinot Noir vines, with further expansion planned.

4. The vineyard is significant in New Zealand's Pinot Noir industry, both in terms of total production and area planted in grape vines. The vineyard is about 9.5% of the total vineyard area in Central Otago and accounts for approximately 17% of the Pinot Noir crop produced in Central Otago.

5. MRVL is an important contributor to the local and wider economy. The company employs 10 – 12 people in permanent roles, performing managerial tasks and operating and maintaining vineyard machinery, as well as 25 term staff.

6. The vineyard also contributes to the economy in a number of other ways. For example, through the purchasing of root stock, machinery, equipment and vineyard and winemaking services. MRVL also supplies specialised viticulture services, such as harvesting and pruning, to other vineyards in the area.

7. It is crucial for any viticulture business, including the McArthur Ridge vineyard, to have a reliable and adequate supply of water. Water must be available throughout the viticulture year for irrigation and for frost fighting, and the water supply needs to be of sufficient volumes to meet the peak demands during the growing season and under drought conditions.

8. The availability of water affects many aspects of the business, including the quality of fruit produced, the volume able to be produced, and whether a consistent supply can be provided to wine producers who purchase the grapes.

Submission Points

9. This submission opposes the Proposed Otago Regional Policy Statement (**PORPS**) because it fails to provide direction on how Otago's land and water planning framework should provide for the

needs of different primary sector producers. In particular, it does not provide sufficient direction on how to address the fraught issue of water allocation for consumptive uses in Otago, particularly for irrigation and frost fighting uses in over-allocated catchments like the Manuherekia River.

10. There should be greater policy direction in the PORPS in regard to promoting and providing for land and water uses that are efficient, have minimal impact on the environment, and that provide significant economic and social benefits. Viticulture is one example, and other uses could also fall into this category (for example, orchards).

11. There are factors specific to viticulture which mean it is an efficient and desirable use of land and water which should be supported:

    a. Viticulture operations are highly efficient users of irrigation water. The amount of water used must be precisely determined to optimise vine health. Underwatering plants results in reduced yields and potentially loss of plants, while overwatering can cause excessive leaf growth, more expensive management practices, poorer grape quality and unnecessary pumping costs.
    b. Vineyards also use water for frost fighting, when the demand is mostly outside of peak season irrigation demand.
    c. Water quality effects resulting from the loss of nutrients from viticultural operations are very low, and less than for other uses such as pastoral farming. There are a number of reasons for this, including that viticultural land uses do not involve the grazing of animals; the nutrient requirements of vines are very low; viticulture does not require an annual application of fertiliser; and, as already mentioned, water is applied with a targeted and precision based system, it is not a broadcast application.
    d. Viticulture has high positive economic and social returns per hectare and per volume of water used, with considerable added value via wine exports and tourism.
    e. The industry body Sustainable Winegrowing NZ (SWNZ) has a strong and long standing focus on sustainability with six areas having been identified, namely water, waste, climate change, people, pest & diseases and soil.

12. However, viticulture has limited ability to respond to water rationing in dry years and no ability to respond to restricted access to water for frost fighting when this is required (if water is the chosen means to frost fight). Reliability of water supply is therefore critical to the industry and its commercial viability.

13. The PORPS recognises, in its summary of significant resource management issues, that a lack of freshwater can negatively impact on industries that rely on water, and the ability for these industries to mitigate the impact of this through water efficiency measures and innovation varies (p75). However, the objectives and policies of the PORPS provide no direction on how the competing needs of these water users should be prioritised, particularly in over allocated catchments.

14. This submission seeks that the PORPS is amended to provide an increased policy direction in relation to the above matters. Some specific amendments to existing provisions are included in the table attached to this submission, but additional objectives and policies will also be required to fully reflect the above issues.

Attachment 3: Section 32AA evaluation

McArthur Ridge submission

Provision	Evaluation
32(1)(a) The evaluation report must examine the extent to which the objectives of the proposed changes are the most appropriate way to achieve the purpose of the RMA	The proposed changes to the terms in Objective LF-FW-02 adopts terms already defined in the PORPS and ensures consistency of terms within the Policy Statement. It removes uncertainty in interpretation. The addition of "viticultural" provides specificity of land use and enables a nuanced policy response in the submission's proposed amendments to the Methods. The change to the date (from 2050 to 2035) by which over-allocation issues in the Manuherekia rohe must be delivered (Objective LF-VM-02-(8)(c) Clutha Mata-au FMU Vision) is necessary as it is not an appropriate way to achieve the purpose of the RMA for an existing significant resource management issue is left to wait for analysis and community engagement for about three statutory life cycles of a RMA plan. The issues may be complex, there is a significant backlog of essential work to be done across all catchments but this is not a new issue. The s32 Report has no specific commentary on why this date has been chosen. Rather it just records that it is a long way out and will cause some economic, social, cultural and environmental issues by the delay. The s32 states that the costs of delay and costs of addressing the issue are unquantified. That is not a good start point because it means that the Council has no means to programme the investment in its LTP. The s32 Costs and Benefits assessment states somewhat obviously that "*the delay in achieving environmental outcomes (potentially for decades) may result in continued adverse effects"* and that *"Rural communities will face considerable costs in fully implementing Option 3 and uncertainty until the full planning framework envisaged is implemented,"* The Council has a statutory duty to provide resource management leadership and direction; deferring decisions for up to 28 years cannot satisfy any test of reasonableness. It does not satisfy a test of a sense of urgency and plan-making priority for an existing significant issue. The amendments to Method LW-FW-M6 provide a set of matters or criteria upon which the future Region Plan can draw and as such ensures a necessary link between the ORPS and the Regional Plan. The new Objective LF-FW-08A and new Policy LF-FW-P7A are appropriate to provide for the water specific needs and characteristics of viticulture. It is the most appropriate way to achieve the purpose of the RMA as it aligns with the approaches taken in the other two major viticulture regions, Hawkes Bay and Marlborough.

	The changes do not conflict with other provisions and are the most appropriate way to achieve the purpose of the RMA, as well as the NPSFM.
32(1)(b) The evaluation report must examine whether the proposed provisions are the most appropriate way to achieve the objectives by reference to other reasonably practicable options and assessing the efficiency and effectiveness of the proposed changes in achieving the objective	The proposed changes to the Objectives, Policies and Methods are the most efficient and effective to address *SRMR-I5 Freshwater demand exceeds capacity in some places,* IM-01-Long Term Vision, IM-03-Environmentally sustainable impact, IM-P2-Decision priorities, IM-P13-Managing cumulative effects, and IM-P14-Human Impact by providing a necessary focus on the specific water demand and water management characteristics of viticulture which is a key regional land use. The changes provide a practical option for the maintenance of viticultural operations through the access to water required for that industry, while providing for the continuation of reducing over-allocation through a focus on the science and husbandry requirements behind water use and its effects. When considered against the notified proposals of bundling land uses, and not providing a regional policy basis for the water specific needs of viticulture and how to address or manage over-allocation in the Manuherekia rohe, the change is the most practicable option.
32(1)(c) The evaluation report must contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from implementation of the proposed changes	The planning basis and rationale for the proposed changes to the Objectives, Policies and Methods will be set out in evidence. That will address policy and plan drafting practice and principles relating to consistency in use of defined terms, and the role of the ORPS to direct or lead the operational management responses in the regional plan. Justification for the specificity as to different land uses that have different relationships to and use/ management of water will be set out in expert evidence. The changes provide a necessary focus in the PORPS on the economic, environmental and social benefits of the winegrowing industry while providing for progress to be made on the over-allocation of water.
32(2)(a) –(c) The assessment under (1)(b)(ii) must identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from implementation of the proposed changes, including opportunities for economic growth that are anticipated and employment; quantify the benefits and costs identified (if practicable); and assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the proposed changes;	The commentary above is also relevant to this aspect of the s32 evaluation. The basis of the changes to the Objectives, Policies and Methods will be addressed in expert evidence. This relates to the lack of specificity in terms of making necessary provision for, and responding appropriately to, the potential impacts on viticulture. These impacts are described in terms of the potentially severe year-on-year and seasonal impacts on a crop of an inability to provide water as part of husbandry practices and especially for frost fighting. There is also a very significant potential adverse impact on the long term viability of the wine growing industry in the region if viticulture's water needs are not specifically provided for in regional policies and the subsequent Regional Plan. The changes proposed in the submission, , will assist in enabling maintenance of the

	economic, environmental and social benefits of the winegrowing industry in Central Otago while providing for progress to be made on the over-allocation of water.