

Proposed Plan Change 2 (Regionally Significant Wetlands)

to the Regional Plan: Water for Otago

Decisions of Council

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

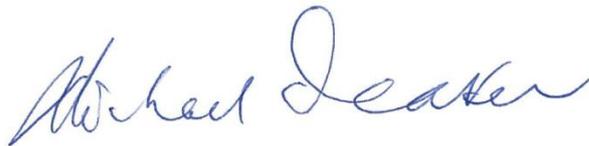
That Council:

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

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

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

Hearings Committee:

A handwritten signature in blue ink that reads "Michael Deaker". The signature is written in a cursive style with a large initial 'M'.

Councillor Michael Deaker

Chairperson

A handwritten signature in blue ink that reads "Duncan Butcher". The signature is written in a cursive style with a large initial 'D'.

Councillor Duncan Butcher

A handwritten signature in blue ink that reads "David Shepherd". The signature is written in a cursive style with a large initial 'D'.

Councillor David Shepherd

Abbreviations

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

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

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Introduction

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

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

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

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

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

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

Overview of recommended amendments

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

Greater regard for human use values should be given by.

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

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

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

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

Withdrawal of part Proposed Plan Change 2

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

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

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

Chapter 1: Recommendations on Regionally Significant Wetlands and values

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

1.1. Regionally Significant Wetland values

Policies 10.4.1 and 10.4.3, Glossary, Inventory

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

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

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

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

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

a) Amend Policy 10.4.1 as follows:

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

b) Delete Policy 10.4.3 as proposed.

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

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

Reasons for recommendation:

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

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

1.2. What is a Regionally Significant Wetland?

Policies 10.4.1A and 10.4.1B, Glossary

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

Summary of Decisions Requested: pages 50–54

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

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

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

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

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

- b) Delete Policy 10.4.1B as follows:

~~**10.4.1B** Schedule 9 lists those Regionally Significant Wetlands that are mapped in Maps F1–F68 and contain one or more regionally significant wetland values.~~

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

Schedule 9: Schedule of identified Regionally Significant ~~W~~wetlands and Wetland Management Areas

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

Reasons for recommendation:

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

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

1.3. Wetland values information

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

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

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

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

We considered the submissions and recommend the following:

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

Reasons for recommendation:

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

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

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

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

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

2.1 Objectives for wetlands

Objective 10.3.1, Glossary

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

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

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

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

a) Amend Objective 10.3.1 as follows:

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

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

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

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

2.2 Priority on avoiding adverse effects

Policy 10.4.2

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

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

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

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

a) Amend Policy 10.4.2 as follows:

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

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

a) The adverse effect cannot be avoided, and

b) The activity:

i. Is lawfully existing; or

ii. Is nationally important; and

iii. Has the purpose of maintaining or enhancing a Regionally Significant Wetland or a regionally significant wetland value.

Reasons for recommendation:

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

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

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

2.3 General permissions, controls, and discretions

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

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

Summary of Decisions Requested: Pages 61-113

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

1. A generic condition for permitted activities "*There is no change to the water level or hydrological function, or no damage to the flora, fauna or its habitat, in or on any Regionally Significant Wetland*".
2. A generic control or discretion for controlled or restricted discretionary activities: "*Any effect on any Regionally Significant Wetland or on any regionally significant wetland value*".

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

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

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

Significant Wetland; and

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

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

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

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

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

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

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

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

Reasons for recommendation:

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

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

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

2.4 Taking and use of surface water

Rules 12.1.1A.1 – 12.1.26

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

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

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

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

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

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

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

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

- b) Amend Rule 12.1.2.6 as follows:

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

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

river; and

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

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

Reasons for recommendation:

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

2.5 Taking of groundwater

Rules 12.2.1A.1 – 12.2.5.1

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

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

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

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

a) Amend Rule 12.2.1A.1 as follows:

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

- i. It is prohibited by Rules 12.2.1.1 or 12.2.1.2; or
- ii. It is permitted by Rules 12.2.2.1 or 12.2.2.3.

Reasons for recommendation:

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

2.6 Damming and diversion of water

Rules 12.3.1A.1 – 12.3.5.2

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

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

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

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

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

a) Amend Rule 12.3.1A.1 as follows:

~~Unless covered by Rules 12.3.1.1 to 12.3.1.4, and 12.3.3.1(i):~~

~~(i) The damming or diversion of water from or within any Regionally Significant Wetland; or~~

~~(ii) The damming or diversion of water that affects the water level of any Regionally Significant Wetland;~~

is a **non-complying** activity, unless:

- i. It is prohibited by Rules 12.3.1.1 to 12.3.1.4; or
- ii. It is permitted by Rules 12.3.2.1 to 12.3.2.3; or
- iii. It is provided for by Rule 12.3.3.1(i).

b) Amend Rule 12.3.2.1:

~~Unless covered prohibited by Rules 12.3.1A.1, and Except as provided for by Rules 12.3.1.1 to 12.3.1.4,~~ the damming or diversion of water is a **permitted** activity, providing:

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

c) Amend Rule 12.3.2.2 as follows:

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

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

d) Amend Rule 12.3.2.3 as follows:

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

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

e) Amend Rule 12.3.3.1 (i) as follows:

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

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

Reasons for recommendation:

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

2.7 Discharges

Rules in 12.4 to 2.11

Plan Change 2 reference: R076, R077, R078, R079 and R083 (pages 44-48), R156 (pages 15-55)

Summary of Decisions Requested: pages 80-84, pages 87-91

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

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

We considered the submissions and recommend the following:

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

Reasons for recommendation:

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

2.8 Structures in Regionally Significant Wetlands

Rules 13.2.1.1 – 13.2.3.1

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

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

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

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

We considered the submissions and recommend the following:

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

c) Amend Rule 13.2.1.5 as follows:

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

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

d) Amend Rule 13.2.1.6 as follows:

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

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

e) Amend Rule 13.2.2.1 as follows:

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

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

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

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

Reasons for recommendation:

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

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

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

2.9 Alteration of Regionally Significant Wetlands

Rules 13.5.1.1 – 13.5.3.2

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

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

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

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

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

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

- a) Amend Rule 13.5.1.5A as follows:

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

b) Adopt new Rule 13.5.1.5B:

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

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

c) Amend Rule 13.5.3.2 as follows:

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

d) Amend note box at 13.5 as follows:

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

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

Reasons for recommendation:

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

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

2.10 Introduction and removal of vegetation in Regionally Significant Wetlands

Rules 13.6.1.1 – 13.7.3.1

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

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

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

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

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

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

- All reasonable ~~steps~~ measures are taken to minimise effects on any Regionally Significant Wetland or on any regionally significant wetland value ~~the release of sediment to the wetland during the introduction or planting; and there is no conspicuous change in the colour or visual clarity of the water body;~~ and
- The introduction or planting does not cause any flooding or erosion; and
- ~~The wetland alteration is limited to that which is necessary for the introduction or planting of the plant material.~~

c) Amend Rule 13.7.1.2 as follows:

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

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

d) Amend Rule 13.7.2.1 as follows:

Except as provided for by Rules 13.7.1.1 and 13.7.1.2, physical removal of material of any of the following plants:

- (i) Lagarosiphon *Lagarosiphon major*; or
- (ii) Eel Grass *Vallisneria spiralis*; or
- (iii) Egeria *Egeria densa*; or
- (iv) Hornwort *Ceratophyllum demersum*; or
- (v) Hydrilla *Hydrilla verticillata*; or
- (vi) Sagittaria *Sagittaria graminea ssp platyphylla*; or
- (vii) Spartina *Spartina anglica*; or
- (viii) Salvinia *Salvinia molesta*; or
- (ix) Water Hyacinth *Eichhornia crassipes*; or
- (x) Water Lettuce *Pistia stratiotes*,

from the bed of any lake or river, or from any Regionally Significant Wetland, is a **controlled** activity.

In granting any resource consent for the removal of material of the above identified plants in terms of this rule, the Otago Regional Council will restrict the exercise of its control to the following:

- (a) The method of removal; and
- (aa) ~~Any disturbance of a~~ The effects on any Regionally Significant Wetland, or on any regionally significant wetland value; and
- (b) The duration of the resource consent; and
- (c) The information and monitoring requirements; and
- (d) Any bond; and
- (e) The review of conditions of the resource consent.

Reasons for recommendation:

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

2.11 Further wetland protection

Relates to all provisions

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

Summary of Decisions Requested: pages 67-110

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

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

We considered the submissions and recommend the following:

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

Reasons for recommendation:

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

2.12 Financial contributions

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

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

Summary of Decisions Requested: pages 113-116

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

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

a) Delete Policy 10.4.4 and Provision 17.2.8 as proposed.

b) Amend Policy 10.4.2A as follows:

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

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

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

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

c) Adopt the Introduction to Chapter 17 as proposed.

Reasons for recommendation:

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

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

Chapter 3: Recommendations on the Schedules and Maps

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

3.1 Schedule 9: Schedule of identified Regionally Significant Wetlands

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

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

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

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

We considered the submissions and recommend the following:

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

Reasons for recommendation:

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

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

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

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

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

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

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

⁵ *Ibid.*, pp.7-8.

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

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

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

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

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

3.2 Mapping of Schedule 9 Wetlands

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

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

Summary of Decisions Requested: pages 117-134

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

We considered the submissions and recommend the following:

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

Reasons for recommendation

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

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

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

¹¹ *Ibid.*, pp.11-12.

¹² *Ibid.*, pp.4-6.

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

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

3.3 Map quality

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

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

Summary of Decisions Requested: pages 119-120

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

We considered the submissions and recommend the following:

- a) Retain the map format as proposed.

Reasons for recommendation:

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

3.4 Schedule 10 and non-Regionally Significant Wetlands

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

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

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

We considered the submissions and recommend the following:

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

Reasons for recommendation:

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

Chapter 4: Recommendations on promotion and funding

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

4.1 Promotion of wetlands

Policy 10.4.6

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

Summary of Decisions Requested: pages 135-136

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

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

a) Amend 10.4.6 as follows :

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

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

Reasons for recommendation:

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

4.2 Funding and assistance

Plan Change 2 reference: R148 (Funding)

Summary of Decisions Requested: pages 136-137

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

We considered the submissions and recommend the following:

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

Reasons for recommendation:

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

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

Chapter 5: Recommendations on general issues

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

5.1 RMA streamlining and simplifying

Chapters 10, 15 and 16

Plan Change 2 reference: R001 – R020 (page 6-14), , R127 – R130 (pages 74), R1131 and R132 (page 76)

Summary of Decisions Requested: page 55, page 58, pages 61-65, page 141, pages 137-138

5.1.1. Overview

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

We considered the submissions and recommend the following:

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

Reasons for recommendation:

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

5.2 Minor and consequential changes

Relates to various plan provisions

Plan Change 2 reference: R143 (page 123), 157 (Drain maintenance)

Summary of Decisions Requested: pages 109-110, 141-142

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

We considered the submissions and recommend the following:

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

~~Applications may be considered without notification under Section 93 and without service under Section 94(1) of the Resource Management Act on persons who, in the opinion of the consent authority, may be adversely affected by the activity.~~

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

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

(a) ~~For A~~ applications for resource consent to which this Rule applies, to take and use water from a river, the Consent Authority is precluded from giving public notification and limited notification ~~may be considered without notification under Section 93 and without service under Section 94(1) of the Resource Management Act on persons who, in the opinion of the consent authority, may be adversely affected by the activity,~~ if the application is to take and use water from:

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

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

(b) ~~For A~~ applications for resource consent to which this rule applies, to take and use water from a water body other than a river, the Consent Authority is precluded from giving public notification and limited notification ~~may be considered without notification under Section 93 and without service under Section 94(1) of the Resource Management Act on persons who, in the opinion of the consent authority, may be adversely affected by the activity.~~

- d) Amend note box at 13.3.1 as follows:

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

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

Except in the case of extraction from the wet bed of a lake or river, or within a RSW, the Consent Authority is precluded from giving public notification and limited notification of an application for a resource consent under this rule. ~~applications may be considered without notification under Section 93 and without service under Section 94(1) of the Resource Management Act on persons who, in the opinion of the consent authority, may be adversely affected by the activity.~~

Reasons for recommendation:

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

5.3 General Support and Opposition

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

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

5.3.1 Overview

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

We considered the submissions and recommend the following:

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

Reasons for recommendation:

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

Chapter 6: Recommendations on matters beyond the scope

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

6.1. Matters beyond the scope of Plan Change 2

Plan Change 2 reference: R152

Summary of Decisions Requested: pages 147 – 148

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

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

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

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