

12

Rules: Water Take, Use and Management



12.0 Applications for taking water

12.0.1 Prohibited activity: No resource consent will be granted

12.0.1.1 An application to take water within primary allocation in a catchment where Policy 6.4.2(b) applies, by a person who does not hold the existing consent to take that water, is a *prohibited* activity.

12.0.1.2 An application to take water as primary allocation where that take would cause the primary allocation of a catchment to exceed the relevant limit in Policy 6.4.2, is a *prohibited* activity.

12.0.1.3 The application to take groundwater for a consumptive use by a person who does not hold the existing resource consent to take that water, from an aquifer identified in Schedule 4A, where the assessed maximum annual take:

- (i) Exceeds the aquifer's maximum allocation limit; or
- (ii) Would exceed the aquifer's maximum allocation limit as a result of this take,

is a *prohibited* activity, unless all of the water taken:

- (1) Is allocated as surface water under Policy 6.4.1A; or
- (2) Is taken for temporary dewatering at a site for construction or repair of a structure.

The Otago Regional Council will use its website www.orc.govt.nz to notify an up-to-date allocation status for aquifers, showing how current allocation compares to the scheduled or default maximum allocation limit (MAL) and will, upon request, advise the applicant of the aquifer's current allocation status before any application is made.

12.0.1.4 *[Repealed – 1 September 2015]*

12.1 The taking and use of surface water

12.1.1 Prohibited activities: No resource consent will be granted

12.1.1.1 The taking and use of surface water from Lake Tuakitoto when the level of the lake is below 100.77 metres above datum, during the period beginning 30 September in any year and ending 16 May in any following year, is a *prohibited* activity for which no resource consent will be granted.

12.1.1.2 The taking and use of surface water for nuclear power generation or nuclear weapon manufacturing is a *prohibited* activity for which no resource consent will be granted.

12.1.1A Non-complying activities: Resource consent required

12.1.1A.1 The taking and use of surface water 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.

An application involving wind energy infrastructure, which because of specific locational constraints affects a Regionally Significant Wetland, will not be bundled with other activities which do not affect a Regionally Significant Wetland.

12.1.1A.2 Except as provided for by Rules 12.1.1.2 to 12.1.5.1 and 12.1.1A.3, the taking and use of surface water in the Waitaki catchment when, by itself or in combination with any other take, use, dam or diversions, the sum of the annual volumes authorised by resource consent, exceeds the allocations to activities set out in Rules 12.1.4.5 to 12.1.4.7 is a *non-complying* activity.

In considering an application to which this rule applies the consent authority will have regard, among other matter to Policies 6.6A.1 to 6.6A.5.

12.1.1A.3 Except as provided for by Rules 12.1.1.2 and 12.1.1A.1, the taking and use of surface water from Welcome Creek is a *non-complying* activity when:

- (i) By itself or in combination with any other take, use, dam or diversions, the sum of the annual volumes authorised by resource consent, exceeds the allocations to activities set out in Rule 12.1.4.2; and
- (ii) The take does not comply with the minimum flow specified in Schedule 2A.

In considering an application to which this rule applies the consent authority will have regard, among other matters, to Policies 6.6A.1 to 6.6A.6.

12.1.2 Permitted activities: No resource consent required

12.1.2.0 The use of surface water for the purpose specified under an existing resource consent to take surface water, granted before 10 April 2010, is a *permitted* activity until the existing resource consent to take surface water:

- (a) Lapses, is surrendered or expires; or
- (b) Is replaced; or
- (c) Is varied under Section 127 of the Act; or
- (d) Is transferred under Section 136 (2)(b)(ii) of the Act.

12.1.2.1 The taking and use of surface water for domestic needs or the needs of animals for drinking water is a *permitted* activity providing:

- (a) No take is for a volume greater than 25,000 litres per day; and
 - (b) No take is at a rate greater than 0.5 litres per second in the North Otago, Maniototo or Central Otago subregions (as identified on Maps A1-A8), or greater than 1 litre per second elsewhere in Otago; and
 - (c) The taking or use does not have an adverse effect on the environment.
- 12.1.2.2 Except as provided for by Rules 12.1.1A.1 and 12.1.1.2, the taking and use of surface water from the main stem of the Clutha/Mata-Au or Kawarau Rivers, or Lakes Wanaka, Hawea, Wakatipu, Dunstan or Roxburgh, is a *permitted* activity, providing:
- (a) The take does not exceed 100 litres per second, nor 1,000,000 litres per day; and
 - (b) No more than one such take occurs per landholding; and
 - (c) No back-flow of any contaminated water occurs to the water body; and
 - (d) Fish are prevented from entering the intake structure.
- 12.1.2.3 Except as provided for by Rule 12.1.1.2, the taking and use of surface water from any artificial lake is a *permitted* activity providing:
- (a) The artificial lake was created under Rule 12.3.2.1 or under the Transitional Regional Plan rule constituted by General Authorisation 13, prior to 28 February 1998; and
 - (b) The water is taken by the owner of the dam structure, or the take is authorised by that owner.
- 12.1.2.4 Except as provided for by Rules 12.1.1.1 to 12.1.2.3, the taking and use of surface water for no more than 3 days in any one month, is a *permitted* activity, providing:
- (a) The water is not used for irrigation; 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) No lawful take of water is adversely affected as a result of the taking; and
 - (e) No take is for a volume greater than 100,000 litres per day; and
 - (f) No take is at a rate greater than 10 litres per second; and
 - (g) No back-flow of any contaminated water occurs to the water body; and
 - (h) Fish are prevented from entering the intake structure; and

- (i) The taking of surface water is not suspended.

The Otago Regional Council may, by public notice, suspend the taking of water under this rule if the taking of water as primary allocation, under a resource consent has had to cease in accordance with Rule 12.1.4.9, for the catchment or river, or part of the catchment or river, at which the taking of water under this rule is occurring.

12.1.2.5 Except as provided for by Rules 12.1.1.1 to 12.1.2.4, the taking and use of surface water is a *permitted* activity, providing:

- (a) There is no change to the water level range or hydrological function of any Regionally Significant Wetland; and
- (b) There is no damage to fauna, or New Zealand native flora, in or on any Regionally Significant Wetland; and
- (c) No lawful take of water is adversely affected as a result of the taking; and
- (d) No take is for a volume greater than 25,000 litres per day at any landholding; and
- (e) No take is at a rate greater than 0.5 litres per second in the North Otago, Maniototo or Central Otago subregions (as identified on Maps A1-A8), or greater than 1 litre per second elsewhere in Otago; and
- (f) No back-flow of any contaminated water occurs to the water body; and
- (g) Fish are prevented from entering the intake structure; and
- (h) The taking of surface water is not suspended.

The Otago Regional Council may, by public notice, suspend the taking of water under this rule if the taking of water as primary allocation, under a resource consent has had to cease in accordance with Rule 12.1.4.9, for the catchment or river, or part of the catchment or river, at which the taking of water under this rule is occurring.

12.1.2.6 Unless prohibited by Rules 12.1.1.1 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; 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

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

12.1.3 Controlled activity: Consent required but always granted

- 12.1.3.1 Unless covered by Rule 12.1.1A.1, the taking and use of surface water for community water supply, up to any volume or rate authorised as at 28 February 1998, by any take identified in Schedule 1B is a *controlled* activity.

In granting any resource consent for the taking and use of surface water in terms of this rule, the Otago Regional Council will restrict the exercise of its control to the following:

- (a) Any need for a residual flow at the point of take; and
- (b) Any need to prevent fish entering the intake; and
- (c) The rate, volume, timing and frequency of the water to be taken and used; and
- (d) The quantity of water required to meet the needs of the community; and
- (e) The proposed method of take and delivery of the water taken; and
- (f) The duration of the resource consent; and
- (g) The information and monitoring requirements; and
- (h) Any bond; and
- (i) The review of conditions of the resource consent; and
- (j) Any effect on any Regionally Significant Wetland or on any regionally significant wetland value.

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

12.1.4 Restricted discretionary activities: Resource consent required

- 12.1.4.1 Except as provided for by Rule 12.1.2.3, the taking and use of surface water from any lake or river which has already been delivered to that lake or river for the purpose of this subsequent taking is a *restricted discretionary* activity.

In considering any resource consent for the taking and use of water in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:

- (a) The amount of water which can be taken, having regard to the amount delivered to the lake or river and any losses that may have occurred between the point of augmentation and the take; and
- (b) Any need to prevent fish entering the intake; and

- (c) The duration of the resource consent; and
- (d) The information and monitoring requirements; and
- (e) Any bond; and
- (f) The review of conditions of the resource consent.

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.

Note:

Rules 12.1.4.2 to 12.1.4.7 below do not apply to the taking of surface water prohibited by rules in 12.0, or provided for by permitted and controlled activity rules in 12.1.2 and 12.1.3 above.

For taking water:

1. *From Lakes Dunstan, Hawea, Roxburgh, Wanaka, Wakatipu or the main stem of the Clutha/Mata-Au or Kawarau Rivers; or*
2. *Where all of the surface water or connected groundwater taken is immediately returned to the source water body; or*
3. *Where all of the water has been delivered to the source water body for the purpose of that subsequent take:*

Any take which does not meet the permitted activity standards is considered under Rules 12.1.4.1, 12.1.5.1 or in Section 12.1.1A, as it is exempt from primary allocation in accordance with Policy 6.4.1.

12.1.4.2 Taking and use of surface water as primary allocation in the following Schedule 2A catchment areas, shown on the B-series maps:

Kakanui,
 Lake Hayes,
 Lake Tuakitoto,
 Pomahaka,
 Shag,
 Taieri Catchment upstream of Paerau,
 Taieri Catchment Sutton to Outram,
 Trotters,
 Waianakarua,
 Waitahuna,
 Waiwera,
 Water of Leith, and
 Welcome Creek:

- (i) This rule applies to the taking of surface water, as primary allocation, in the above catchment areas, and subject to the minimum flows specified in Schedule 2A.

- (ii) Unless covered by Rule 12.1.1A.1, the taking and use of surface water to which this rule applies is a **restricted discretionary** activity, provided that, in the case of Welcome Creek, by itself or in combination with any other take, use, dam, or diversion, the sum of the annual volumes authorised by resource consent, does not exceed the allocation to activities set out in Table 12.1.4.2.
- (iii) The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.1.4.8.
- (iv) The conditions of all existing consents will be reviewed by the Otago Regional Council under Sections 128 to 132 of the Act to enable the minimum flows specified in Schedule 2A to be met, the volume and rate of take to be measured in accordance with Policy 6.4.16 and the taking to be subject to Rule 12.1.4.9, as soon as practicable after the Plan becomes operative.

Table 12.1.4.2

Annual allocation to activities

Note: units = millions of m³ per year

	Town and Community water supply	Industrial and commercial activities (outside municipal or town supply areas)	Tourism and recreational facilities	Agricultural and horticultural activities	Any other activities*	Hydro-electricity generation*
Downstream of Waitaki Dam but downstream of Black Point	19	8.5	4.3	1100	144	All other flows except the flows that must remain in the rivers, pursuant to the environmental flow and level regimes

* Water taken or diverted and returned to the same water body in the vicinity of the take or diversion point, in the same condition and quality as taken, for fisheries and wildlife or micro hydro-electricity generation, does not need to be accounted for in the annual allocation to activities in Table 12.1.4.2.

12.1.4.3 Taking and use of surface water as supplementary allocation specified in Schedule 2B:

- (i) This rule applies to the taking of surface water as supplementary allocation as specified in Schedule 2B, subject to the minimum flows specified in Schedule 2B.
- (ii) Unless covered by Rule 12.1.1A.1, the taking and use of surface water to which this rule applies is a **restricted discretionary** activity. The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.1.4.8.

- (iii) Unless covered by Rule 12.1.1A.1, the taking and use of surface water in the Waitaki catchment to which this rule applies is a **restricted discretionary** activity provided that by itself or in combination with any other take, use, dam, or diversion, the sum of the annual volumes authorised by resource consent, does not exceed the allocation to activities set out in Table 12.1.4.2 and is subject to Rule 12.1.4.9. The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.1.4.8.
- (iv) The conditions of all existing consents will be reviewed by the Otago Regional Council under Sections 128 to 132 of the Act to enable the minimum flows set in Schedule 2A or Schedule 2B to be met, the volume and rate of take to be measured in accordance with Policy 6.4.16 and the taking to be subject to Rule 12.1.4.9, as soon as practicable after the Plan becomes operative.

12.1.4.4 Taking and use of surface water as primary allocation applied for prior to 28 February 1998 in the following Schedule 2A catchments, shown on the B-series maps:

Luggate Catchment,
 Manuherikia Catchment Upstream of Ophir,
 Taieri Catchment Paerau to Waipiata,
 Taieri Catchment Waipiata to Tiroiti, and
 Taieri Catchment Tiroiti to Sutton:

- (i) This rule applies to the taking of surface water, as primary allocation, in the above catchment areas, if the taking was the subject of a resource consent or other authority:
 - (a) Granted before 28 February 1998; or
 - (b) Granted after 28 February 1998, but was applied for prior to 28 February 1998; or
 - (c) Granted to replace a resource consent or authority of the kind referred to in paragraph (a) or (b).
- (ii) Unless covered by Rule 12.1.1A.1, the taking and use of surface water to which this rule applies is a **restricted discretionary** activity. The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.1.4.8.
- (iii) The minimum flows set out in Schedule 2A of this Plan for the above catchments shall affect the exercise of every resource consent or other authority, of the kind referred to in paragraph (i) of this rule, in the Luggate catchment area, Manuherikia catchment area (upstream of Ophir) and Taieri catchment areas Paerau to Waipiata, Waipiata to Tiroiti and Tiroiti to Sutton, upon review of consent conditions.
- (iv) The conditions of all such consents will be reviewed by the Otago Regional Council under Sections 128 to 132 of the Act

to enable the minimum flows set by Schedule 2A to be met, the volume and rate of take to be measured in accordance with Policy 6.4.16 and the taking to be subject to Rule 12.1.4.9.

- (v) The minimum flows set in Schedule 2A for the Luggate catchment area, Manuherikia catchment area (upstream of Ophir) and Taieri catchment areas Paerau to Waipiata, Waipiata to Tiroiti and Tiroiti to Sutton, shall not apply to any consents referred to in clause (i), paragraphs (a) to (c) of this rule until the review of consent conditions set out in clause (iv) of this rule occurs.

12.1.4.4A *[Repealed – 1 March 2012]*

12.1.4.5 Taking and use of surface water as primary allocation applied for prior to 28 February 1998 in catchments not listed in Schedule 2A:

- (i) This rule applies to the taking of surface water, as primary allocation, in catchment areas not listed in Schedule 2A, if the taking was the subject of a resource consent or other authority:
 - (a) Granted before 28 February 1998; or
 - (b) Granted after 28 February 1998, but was applied for prior to 28 February 1998; or.
 - (c) Granted to replace a resource consent or authority of the kind referred to in paragraph (a) or (b).
- (ii) Unless covered by Rule 12.1.1A.1, the taking and use of surface water to which this rule applies is a **restricted discretionary** activity. The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.1.4.8.
- (iii) Unless covered by Rule 12.1.1A.1, the taking and use of surface water in the Waitaki catchment to which this rule applies is a **restricted discretionary** activity provided that by itself or in combination with any other take, use, dam, or diversions, the sum of the annual volumes authorised by resource consent, does not exceed the allocation to activities set out in Table 12.1.4.2. The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.1.4.8.
- (iv) Takes to which this rule applies will not be subject to a minimum flow condition until the minimum flow has been determined by investigation and added to Schedule 2A by a plan change.

Note: If a minimum flow has been determined for a catchment previously not listed in Schedule 2A, and that minimum flow

has been set by a plan change, the catchment will then be listed in Schedule 2A and Rule 12.1.4.2 or Rule 12.1.4.4 will apply.

12.1.4.6 Taking and use of surface water as a new primary allocation take in catchment areas not listed in Schedule 2A:

- (i) This rule applies to the taking of surface water as primary allocation in catchment areas not listed in Schedule 2A, and not subject to Rule 12.1.4.5.
- (ii) Unless covered by Rule 12.1.1A.1, the taking and use of surface water to which this rule applies is a **restricted discretionary** activity. The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.1.4.8.
- (iii) Unless covered by Rule 12.1.1A.1, the taking and use of surface water in the Waitaki catchment to which this rule applies is a **restricted discretionary** activity provided that by itself or in combination with any other take, use, dam, or diversions, the sum of the annual volumes authorised by resource consent, does not exceed the allocation to activities set out in Table 12.1.4.2. The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.1.4.8.
- (iv) Minimum flows for catchments not listed in Schedule 2A will be set on a case-by-case basis such that any minimum flow set will allow the taking of water, while providing for the aquatic ecosystems and natural character of the catchment water bodies and the taking to be subject to Rule 12.1.4.9.
- (v) The minimum flows set on a case-by-case basis will continue to apply until investigations have established the appropriate minimum flow. The new minimum flow will be added to Schedule 2A by a plan change and Rule 12.1.4.2 or Rule 12.1.4.4 will then apply.

12.1.4.7 Taking and use of surface water as supplementary allocation in any catchment other than a Schedule 2B catchment:

- (i) This rule applies to the taking of surface water as supplementary allocation for any catchment area, except for any Schedule 2B catchment as set out in clause (ii) below, subject to the minimum flows set in paragraph (iii) below.
- (ii) This rule does not apply to the taking of any surface water that is in addition to the first supplementary allocation provided for by Schedule 2B, for any catchment area in Rule 12.1.4.3.
- (iii) The taking of surface water as supplementary allocation for any catchment is subject to a minimum flow which is not less than either:
 - (a) 50% of the natural flow at the point of take, or, if a

resource consent so provides, not less than 50% of the natural flow at a point specified in the resource consent;
or

- (b) The natural mean flow at the point of take, or, if a resource consent so provides, not less than the natural mean flow at a point specified in the resource consent, as the Otago Regional Council determines in granting a resource consent.
- (iv) Unless covered by Rule 12.1.1A.1, the taking and use of surface water to which this rule applies is a **restricted discretionary** activity, and is subject to Rule 12.1.4.9. The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.1.4.8.
- (v) Unless covered by Rule 12.1.1A.1, the taking and use of surface water in the Waitaki catchment to which this rule applies is a **restricted discretionary** activity provided that by itself or in combination with any other take, use, dam, or diversions, the sum of the annual volumes authorised by resource consent, does not exceed the allocation to activities set out in Table 12.1.4.2 and is subject to Rule 12.1.4.9. The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.1.4.8.
- (vi) This rule shall affect the exercise of any resource consent which was either:
 - (a) Granted before 28 February 1998; or
 - (b) Granted after 28 February 1998 but was applied for prior to 28 February 1998,

for the taking of surface water where a condition on the consent requires the take to be suspended at a minimum flow higher than that which would be set by Schedule 2A.
- (vii) The conditions of all such resource consents will be reviewed under Sections 128 to 132 of the Act to enable the minimum flows in paragraph (iii)(a) or (iii)(b) of this rule to be met, the volume and rate of take to be measured in accordance with Policy 6.4.16 and the taking to be subject to Rule 12.1.4.9, as soon as practicable after the Plan becomes operative.

12.1.4.8 Restricted discretionary activity considerations

In considering any resource consent for the taking and use of water in terms of Rules 12.1.4.2 to 12.1.4.7 and 12.2.3.1A, the Otago Regional Council will restrict the exercise of its discretion to the following:

- (i) The primary and supplementary allocation limits for the catchment; and
- (ii) Whether the proposed take is primary or supplementary allocation for the catchment; and

- (iii) The rate, volume, timing and frequency of water to be taken and used; and
- (iv) The proposed methods of take, delivery and application of the water taken; and
- (v) The source of water available to be taken; and
- (vi) The location of the use of the water, when it will be taken out of a local catchment; and
- (vii) Competing lawful local demand for that water; and
- (viii) The minimum flow to be applied to the take of water, if consent is granted; and
- (ix) Where the minimum flow is to be measured, if consent is granted; and
- (x) The consent being exercised or suspended in accordance with any Council approved rationing regime; and
- (xi) Any need for a residual flow at the point of take; and
- (xii) Any need to prevent fish entering the intake and to locate new points of take to avoid adverse effects on fish spawning sites; and
- (xiii) Any effect on any Regionally Significant Wetland or on any regionally significant wetland value; and
- (xiv) Any financial contribution for regionally significant wetland values or Regionally Significant Wetlands that are adversely affected; and
- (xv) Any actual or potential effects on any groundwater body; and
- (xvi) Any adverse effect on any lawful take of water, if consent is granted, including potential bore interference; and
- (xvii) Whether the taking of water under a water permit should be restricted to allow the exercise of another water permit; and
- (xviii) Any arrangement for cooperation with other takers or users; and
- (xix) Any water storage facility available for the water taken, and its capacity; and
- (xx) The duration of the resource consent; and
- (xxi) The information, monitoring and metering requirements; and
- (xxii) Any bond; and
- (xxiii) The review of conditions of the resource consent; and
- (xxiv) For resource consents in the Waitaki catchment the matters in (i) to (xxiii) above, as well as matters in Policies 6.6A.1 to 6.6A.6.

Notification and written approvals

- (a) For applications for resource consent to which this Rule applies, to take and use water from a river, the Consent Authority is precluded from giving public notification, 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.

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

12.1.4.9 The suspension of takes

It is a term of any taking of surface water under Rules 12.1.1A.1, 12.1.2.4, 12.1.2.5 and 12.1.4.2 to 12.1.4.7 that, when the flow is equal to or less than a minimum flow applied by or under these rules, the Council may, by public notice, suspend all taking to enable the minimum flow to be met.

For catchments that have access to flow information via the “Water Info” telephone service, the taking of water under those consents shall cease automatically (without notification by Council) when the flow is at or below the minimum set in Schedule 2A or 2B until the flow again exceeds the minimum flow specified in Schedule 2A or 2B.

For catchments or parts of catchments where there is no access to flow information via the “Water Info” telephone service, the Council will notify the consent holders in those catchments that the taking of water shall cease. The Otago Regional Council will suspend takes in these catchments, or parts of catchments, by public notification through public media (newspaper, radio, television) until further notice that taking can recommence.

12.1.5 Discretionary activities: Resource consent required

12.1.5.1 Except as provided for by Rules 12.1.1.1 to 12.1.4.7, the taking and use of surface water is a *discretionary* activity.

12.1.6 *[Moved to 12.1.1A – 1 October 2013]*

Principal reasons for adopting

The taking and use of water can only occur if it is expressly allowed by a rule in a regional plan, or in any relevant proposed regional plan, or by a resource consent (Section 14(3) of the Resource Management Act).

Rule 12.1.1.1 is adopted to prohibit takes of water from Lake Tuakitoto when the minimum level established by this Plan is in force. This rule continues the minimum lake level already established to protect the lake’s recreational and wildlife features by The Local Water Conservation (Lake Tuakitoto) Notice, 1991.

Rule 12.1.1.2 is adopted to provide for and be fully consistent with Policy 12.5.1 of the Regional Policy Statement for Otago. The rule prohibits all taking of surface water for use in nuclear power generation plants and in nuclear weapons manufacturing.

Rule 12.1.2.0 is adopted to permit the use of surface water taken under a resource consent granted prior to 10 April 2010.

The taking and use of surface water under Rules 12.1.2.1 to 12.1.2.6 will have no more than minor adverse effects on the natural and human use values supported by water bodies, or on any other person taking water. These rules are adopted to enable access to resources while providing protection for those values and uses.

The taking and use of surface water for existing community water supply identified in Schedule 1B is a controlled activity in order that the needs of Otago’s communities can continue to be met.

Where surface water that is to be taken and used has been specifically supplied from an augmentation scheme, the Council only needs to consider what portion of that water is still available to be taken, and the quantity of water required for the intended purpose of use. Therefore the taking and use of water, delivered for the purpose of that subsequent taking, is a restricted discretionary activity.

The taking of surface water within the primary and supplementary allocation limits identified in this Plan will be subject to minimum flows which will protect aquatic ecosystems and natural character. As such, the Council has restricted the exercise of its discretion when considering applications for resource consents under Rules 12.1.4.1 and 12.1.4.2 to 12.1.4.7, to take and use water. Any other activity involving the taking and use of surface water is either a discretionary activity or a non-complying activity in order that any adverse effects can be assessed. Non-complying activity rules 12.1.1A.2 and 12.1.1A.3 were added to this Plan by the Waitaki Catchment Water Allocation Regional Plan.

12.2 The taking and use of groundwater

Note: The construction or alteration of any bore for taking groundwater requires a resource consent under Rule 14.1.1.

12.2.1 Prohibited activities: No resource consent will be granted

12.2.1.1 The taking and use of groundwater for nuclear power generation or nuclear weapon manufacturing is a *prohibited* activity for which no resource consent will be granted.

12.2.1.2 The taking and use of groundwater from within 100 metres of Lake Tuakitoto when the level of the lake is below 100.77 metres above datum, during the period beginning 30 September in any year and ending 16 May in any following year, is a *prohibited* activity for which no resource consent will be granted.

12.2.1A Non-complying activities: Resource consent required

12.2.1A.1 The taking of groundwater 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.

An application involving wind energy infrastructure, which because of specific locational constraints affects a Regionally Significant Wetland, will not be bundled with other activities which do not affect a Regionally Significant Wetland.

12.2.1A.2 Except as provided for by Rules 12.2.1.1 and 12.2.1A.1, the taking and use of groundwater in the Waitaki catchment when, by itself or in combination with any other take, use, dam or diversions, the sum of the annual volumes authorised by resource consent, exceeds the allocations to activities set out in Rule 12.2.4.1 is a *non-complying* activity.

In considering an application to which this rule applies the consent authority will have regard, among other matters, to Policies 6.6A.1 to 6.6A.6.

12.2.1A.3 The taking of groundwater for a consumptive use by a person who does not hold the existing resource consent to take that water, from an aquifer not identified in Schedule 4A, where the assessed maximum annual take:

- (i) Exceeds the aquifer's maximum allocation limit; or
- (ii) Would exceed the aquifer's maximum allocation limit as a result of this take,

is a *non-complying* activity, unless all of the water taken:

- (1) Is allocated as surface water under Policy 6.4.1A; or

- (2) Is taken for temporary dewatering at a site for construction or repair of a structure; or
- (3) Is taken from a rock formation having an average hydraulic conductivity of less than 1×10^{-5} metres per second, which is not an aquifer mapped in the C-series of this Plan, and is taken in connection with mineral extraction activities.

The Otago Regional Council will use its website www.orc.govt.nz to notify an up-to-date allocation status for aquifers, showing how current allocation compares to the scheduled or default maximum allocation limit (MAL) and will, upon request, advise the applicant of the aquifer's current allocation status before any application is made.

12.2.2 Permitted activities: No resource consent required

- 12.2.2.0 The use of groundwater for the purpose specified under an existing resource consent to take groundwater, granted before 10 April 2010, is a **permitted** activity until the existing resource consent to take groundwater:
 - (a) Lapses, is surrendered or expires; or
 - (b) Is replaced; or
 - (c) Is varied under Section 127 of the Act; or
 - (d) Is transferred under Section 136 (2)(b)(ii) of the Act.

- 12.2.2.1 The taking and use of groundwater for domestic needs or the needs of animals for drinking water is a **permitted** activity providing:
 - (a) No take is for a volume greater than 25,000 litres per day; and
 - (b) The taking or use does not have an adverse effect on the environment.

- 12.2.2.2 Except as provided for by Rules 12.2.1.1 to 12.2.2.1, the taking and use of groundwater is a **permitted** activity, providing:
 - (a) No lawful take of water is adversely affected as a result of the taking; and
 - (b) The water is not taken from any aquifer identified in Schedule 2C; and
 - (c) The water is not taken from within 100 metres of any wetland, lake or river; and
 - (d) *[Repealed – 1 March 2012]*
 - (e) *[Repealed – 1 March 2012]*
 - (f) The take is for a volume no greater than 50,000 litres per day, at any landholding, from the following aquifers:
 - (i) Lower Waitaki Plains Groundwater Protection Zone A (as identified on Maps C15 and C16); and

- (ii) Inch Clutha Gravel (as identified on Maps C26 and C27); and
- (g) Except as provided by Condition (f) above, the take is for a volume no greater than 25,000 litres per day, at any landholding, elsewhere in Otago; and
- (h) No back-flow of any contaminated water occurs to the aquifer; and
- (i) The taking of groundwater is not suspended.

The Otago Regional Council may, by public notice, suspend the taking of water under this rule if the taking of water, under a resource consent has had to cease in accordance with Rule 12.2.3.5, for the aquifer from which the taking of water under this rule is occurring.

12.2.2.3 The taking of groundwater for the purpose of down-hole pump testing is a *permitted* activity, providing:

- (a) The take does not exceed 2,000,000 litres per day and is carried out for a period of no longer than three consecutive days; and
- (b) No lawful take of water is adversely affected as a result of the taking.

12.2.2.4 Except as provided for by Rule 12.2.1.1, the taking and use of groundwater from within 100 metres of the main stem of the Clutha/Mata-Au or Kawarau Rivers, or from within 100 metres of Lakes Wanaka, Hawea, Wakatipu, Dunstan or Roxburgh, is a *permitted* activity, providing:

- (a) The take does not exceed 100 litres per second, nor 1,000,000 litres per day; and
- (b) No more than one such take occurs per landholding; and
- (c) No back-flow of any contaminated water occurs to the water body; and
- (d) The take is not within 100 metres of any wetland or other lake or river; and
- (e) No lawful take of water, and no wetland or other lake or river, is adversely affected as a result of the taking.

12.2.2.5 Except as provided for by Rules 12.2.1.1 to 12.2.2.4, the taking and use of groundwater from:

- (i) Any aquifer listed in Schedule 2C; or
- (ii) Within 100 metres of any wetland, lake or river, for no more than 3 days in any one month, is a *permitted* activity, providing:
 - (a) The water is not used for irrigation; 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) No lawful take of water is adversely affected as a result of the taking; and
- (e) No take is for a volume greater than 100,000 litres per day; and
- (f) No take is at a rate greater than 10 litres per second; and
- (g) No back-flow of any contaminated water occurs to the water body; and
- (h) The taking of surface water is not suspended.

The Otago Regional Council may, by public notice, suspend the taking of water under this rule if the taking of water as primary allocation, under a resource consent has had to cease in accordance with Rule 12.2.3.5, for the catchment or river, or part of the catchment or river, at which the taking of water under this rule is occurring.

12.2.2.6 Except as provided for by Rules 12.2.1.1 to 12.2.2.5, the taking and use of groundwater from:

- (i) Any aquifer listed in Schedule 2C; or
- (ii) Within 100 metres of any wetland, lake or river, is a *permitted* activity, providing:
 - (a) There is no change to the water level range or hydrological function of any Regionally Significant Wetland; and
 - (b) There is no damage to fauna, or New Zealand native flora, in or on any Regionally Significant Wetland; and
 - (c) No lawful take of water is adversely affected as a result of the taking; and
 - (d) No take is for a volume greater than 25,000 litres per day at any landholding; and
 - (e) No take is at a rate greater than 0.5 litres per second in the North Otago, Maniototo or Central Otago subregions (as identified on Maps A1–A8), or greater than 1 litre per second elsewhere in Otago; and
 - (f) No back-flow of contaminated water occurs to the water body; and
 - (g) The taking of surface water is not suspended.

The Otago Regional Council may, by public notice, suspend the taking of water under this rule if the taking of water as primary allocation, under a resource consent has had to cease in accordance with Rule 12.2.3.5, for the catchment or river, or part of the catchment or river, at which the taking of water under this rule is occurring.

12.2.2.A Controlled activity: Consent required but always granted

12.2.2A.1 Unless covered by Rule 12.2.1A.1, the taking and use of groundwater for community water supply, by any take identified in Schedule 3B, up to any volume or rate listed in Schedule 3B, is a **controlled** activity.

In granting any resource consent for the taking and use of groundwater in terms of this rule, the Otago Regional Council will restrict the exercise of its control to the following:

- (a) The need to observe a restriction level, and
- (b) The need for a residual flow at the point of take; and
- (c) The rate, volume, timing and frequency of the water to be taken and used; and
- (d) The quantity of water required to meet the needs of the community; and
- (e) The proposed methods of take and delivery of the water taken; and
- (f) The duration of the resource consent; and
- (g) The information and monitoring requirements; and
- (h) Any bond; and
- (i) The review of conditions of the resource consent; and
- (j) Any effect on any Regionally Significant Wetland or on any regionally significant wetland value.

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

12.2.3 Restricted discretionary activities: Resource consent required

12.2.3.1 *[Repealed – 1 March 2012]*

12.2.3.1A Unless covered by Rule 12.2.1A.1, the taking of groundwater from any Schedule 2C aquifer or from within 100 metres of any connected perennial surface water body, and the use of that groundwater, is a **restricted discretionary** activity, if all the standards and terms set out under Rules 12.1.4.1 to 12.1.4.7 that apply to the proposed taking and use are met, as if the take is surface water, except that any date should be read as 10 April 2010.

The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.1.4.8.

12.2.3.2 *[Repealed – 1 March 2012]*

12.2.3.2A Except as provided for by 12.0.1.3, 12.2.1A.3 and 12.2.3.1A, the taking and use of groundwater is a **restricted discretionary** activity, if:

- (a) The volume sought is within:
 - (i) The maximum allocation limit identified in Schedule

- 4A; or
- (ii) 50% of the mean annual recharge calculated under Schedule 4D, for any aquifer not identified in Schedule 4A; or
- (iii) That volume specified in an existing resource consent where the assessed maximum annual take of the aquifer exceeds its maximum allocation limit; and
- (b) It is subject to any aquifer restriction identified in Schedule 4B; and
- (c) Where the rate of surface water depletion is greater than 5 l/s, as calculated using Schedule 5A:
 - (i) Primary surface water allocation is available; and
 - (ii) For the Waitaki catchment, allocation to activities set out in Table 12.1.4.2 is available.

The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.2.3.4.

12.2.3.3 *[Repealed – 1 March 2012]*

- 12.2.3.4 Restricted discretionary activity considerations
- In considering any resource consent for the taking and use of groundwater in terms of Rule 12.2.3.2A, the Otago Regional Council will restrict the exercise of its discretion to the following:
- (i) The maximum allocation limit for the aquifer; and
 - (iA) The assessed maximum annual take for the aquifer; and
 - (ii) The mean annual recharge of the aquifer; and
 - (iii) The effect of the take on the hydrodynamic properties of the aquifer and the vulnerability of the aquifer to compaction; and
 - (iv) Whether any part of the take would constitute allocation from any connected perennial surface water body, and the availability of that allocation; and
 - (v) The rate, volume, timing and frequency of groundwater to be taken and used; and
 - (vi) The proposed methods of take, delivery and application of the groundwater taken; and
 - (vii) The source of groundwater available to be taken; and
 - (viii) The location of the use of the groundwater, when it will be taken out of a local catchment; and
 - (ix) In the case of takes from an aquifer identified in Schedule 4B, the restrictions for the aquifer (as identified in that schedule) to be applied to the take of groundwater, if consent is granted; and

- (x) The consent being exercised or suspended in accordance with any Council approved rationing regime; and
- (xi) Any adverse effect on the existing quality of groundwater in the aquifer; and
- (xii) Any irreversible or long term degradation of soils arising from the use of water for irrigation; and
- (xiii) Any actual or potential effects on any surface water body; and
- (xiv) Any adverse effect on the habitat of any indigenous freshwater fish species that are listed in Schedule 1AA; and
- (xv) Any effect on any Regionally Significant Wetland or on a regionally significant wetland value; and
- (xvi) Any financial contribution for regionally significant wetland values or Regionally Significant Wetlands that are adversely affected; and
- (xvii) Any adverse effect on any lawful take of water, if consent is granted, including potential bore interference; and
- (xviii) Whether the taking of water under a water permit should be restricted to allow the exercise of another water permit; and
- (xix) Any arrangement for cooperation with other takers or users; and
- (xx) Any water storage facility available for the groundwater taken, and its capacity; and
- (xxi) The duration of the resource consent; and
- (xxii) The information, monitoring and metering requirements; and
- (xxiii) Any bond; and
- (xxiv) The review of conditions of the resource consent; and
- (xxv) For resource consents in the Waitaki catchment the matters in (i) to (xxi) above, as well as matters in Policies 6.6A.1 to 6.6A.6.

Notification and written approvals

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

12.2.3.5 The suspension of takes

- (i) It is a term of any taking of groundwater under Rules 12.2.1A.1, 12.2.2.5, 12.2.2.6 and 12.2.3.1A that, when the flow in the catchment in which the take occurs is equal to or less than a minimum flow set by or under these rules, the Council may, by public notice, suspend all taking to enable the minimum flow to be met.

These catchments have access to flow information via the “Water Info” telephone service, and the taking of water under those consents shall cease automatically (without notification by Council) when the flow is at or below the minimum set in

Schedule 2A until the flow again exceeds the minimum flow specified in Schedule 2A.

- (ii) It is a term of any taking of groundwater under Rule 12.2.2.2 that, when the aquifer levels are equal to or less than those set by those rules, the Otago Regional Council may, by public notice, suspend the taking of groundwater to enable the restrictions to be met.
- (iii) Any notice given under paragraph (i) or (ii) of this rule comes into force on the date specified in the notice and continues in force until revoked by public notice. Any notice may relate to one or more catchments or aquifers.

12.2.4 Discretionary activities: Resource consent required

- 12.2.4.1 (i) Except as provided for by Rules 12.2.1.1 to 12.2.3.5 the taking and use of groundwater is a *discretionary* activity.
- (ii) Unless covered by Rule 12.2.1A.1, the taking and use of groundwater in the Waitaki catchment to which this rule applies is a *discretionary* activity provided that by itself or in combination with any other take, use, dam or diversions, the sum of the annual volumes authorised by resource consent, does not exceed the allocation to activities set out in Table 12.1.4.2. In considering an application to which this rule applies, the consent authority will have regard, among other matters, to Policies 6.6A.1 to 6.6A.6.

12.2.5 *[Moved to 12.2.1A – 1 October 2013]*

Principal reasons for adopting

The taking and use of groundwater can only occur if they are expressly allowed by a rule in a regional plan, or in any relevant proposed regional plan, or by a resource consent (Section 14(3) of the Resource Management Act).

Rule 12.2.1.1 is adopted to provide for and be fully consistent with Policy 12.5.1 of the Regional Policy Statement for Otago. The rule prohibits all taking of groundwater for use in nuclear power generation plants and in nuclear weapons manufacturing.

Rule 12.2.1.2 is adopted to prohibit takes of water from Lake Tuakitoto when the minimum level established by this plan is in force. This rule continues the minimum lake level already established to protect the lake's recreational and wildlife features by The Local Water Conservation (Lake Tuakitoto) Notice, 1991.

Rule 12.2.2.0 is adopted to permit the use of groundwater take under a resource consent granted prior to 10 April 2010.

The taking and use of groundwater under Rules 12.2.2.1 to 12.2.2.6 will have no more than minor adverse effects on the aquifer from which the water is taken,

any wetland, lake or river, or on any other person taking water. These rules are adopted to enable access to resources while providing protection for the existing consumptive uses of the groundwater.

The taking and use of groundwater under Rule 12.2.2A.1 for existing community water supply takes identified in Schedule 3B is a controlled activity in order that the needs of Otago’s communities can continue to be met.

The taking of groundwater under Rule 12.2.3.1A is treated as surface water taking, subject to the standards and terms in the specified surface water rules, which include the minimum flows that apply in the relevant catchments. This will maintain surface water levels and the groundwater volume of the aquifers, protect aquifer ecosystems and natural character, while ensuring recognised uses can continue.

The taking of groundwater under Rule 12.2.3.2A, is treated as the taking of groundwater and part surface water, where surface water depletion is greater than 5 l/s. This will maintain the levels identified for the specified aquifers and the groundwater volume of the aquifers, while ensuring the aquifers’ recognised uses can continue. This will also ensure that the effect of the take on the surface water body is recognised.

The Council has restricted the exercise of its discretion when considering applications for resource consents under Rules 12.2.3.1A and 12.2.3.2A.

Any other activity involving the taking of groundwater is either a discretionary activity or a non-complying activity in order that any adverse effects can be assessed. Non-complying activity Rule 12.2.1A.2 was added to this Plan by the Waitaki Catchment Water Allocation Regional Plan.

12.3 The damming or diversion of water

Note: The erection of a dam in the bed of a lake or river is covered by Rules 13.2.1.3 and 13.2.3.1.

12.3.1 Prohibited activities: No resource consent will be granted

12.3.1.1 The damming of the following rivers is a *prohibited* activity for which no resource consent will be granted:

- (a) Kawarau River main stem from Scrubby Stream to the Lake Wakatipu control gates (F41:035680 to F41:738667);
- (b) Shotover River main stem at or about F41:765680 to E40:662173);
- (c) Dart River/Te Awa Whakatipu main stem from Lake Wakatipu to confluence with Beans Burn (at or about E41:438853 to E40:375077);
- (d) Rees River main stem from Lake Wakatipu to confluence with Hunter Creek (at or about E41:448852 to E40:499117); and

- (e) Diamond Lake, Diamond Creek and Lake Reid (at or about E40:435975; E40:444963 to E40:450918).
- 12.3.1.2 The damming of Lake Wanaka and of the Upper Clutha River/Mata-Au between F40:050089 to F40:088067, other than for the duration of an emergency as declared by the Guardians of Lake Wanaka under the Lake Wanaka Preservation Act 1973, is a **prohibited** activity for which no resource consent will be granted.
- 12.3.1.3 The damming of the following rivers, other than for stockwater supply purposes, is a **prohibited** activity for which no resource consent will be granted:
- (a) Pomahaka River, including its tributaries, from its sources to its confluence (G45:447454) with the Clutha River/Mata-Au;
 - (b) Waipahi River from its source to its confluence (G45:194520) with the Pomahaka River; and
 - (c) Lower Clutha River/Mata-Au from its confluence (G45:447454) with the Pomahaka River to the sea at the mouths of the Matau and Koau Branches.
- 12.3.1.4 The diversion of surface water from Lake Tuakitoto when the level of the lake is below 100.77 metres above datum, during the period beginning 30 September in any year and ending 16 May in any following year, is a **prohibited** activity for which no resource consent will be granted.

12.3.1A Non-complying activities: Resource consent required

- 12.3.1A.1 The damming or diversion of water within 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.

An application involving wind energy infrastructure, which because of specific locational constraints affects a Regionally Significant Wetland, will not be bundled with other activities which do not affect a Regionally Significant Wetland.

- 12.3.1A.2 Except as provided for in Rules 12.3.1A.1 and 12.3.1A.3, the damming or diversion of water in the Waitaki catchment when, by itself or in combination with any other take, use, dam, or diversions, the sum of the annual volumes authorised by resource consent, exceeds the allocations to activities set out in Rules 12.3.3.1 and 12.3.4.1 is a **non-complying** activity.

In considering an application to which this rule applies the consent authority will have regard, among other matters, to Policies 6.6A.1 to 6.6A.5.

12.3.1A.3 Unless covered by Rule 12.3.1A.1, the damming or diversion of water from Welcome Creek is a *non-complying* activity.

In considering an application to which this rule applies the consent authority will have regard, among other matters, to Policies 6.6A.1 to 6.6A.6.

12.3.2 Permitted activities: No resource consent required

12.3.2.1 Unless prohibited 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; 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
- (i) The damming or diversion is not within the Waitaki catchment.

12.3.2.2 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; 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 diversion does not result in the lowering of the level of water in any lake or river; and
- (e) The diversion does not cause flooding of any other person's property, erosion, land instability, sedimentation or property damage.

12.3.2.3 Unless prohibited by Rules 12.3.1.1 to 12.3.1.4, 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; 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
- (g) The diversion does not cause any erosion, land instability, sedimentation or property damage.

12.3.3 **Restricted discretionary activities: Resource consent required**

12.3.3.1 (i) The damming of water, which has been previously carried out under a resource consent or other lawful authority, is a *restricted discretionary* activity, unless:

- (a) It is prohibited by Rules 12.3.1.1 to 12.3.1.4; or
- (b) It is permitted by Rule 12.3.2.1; or
- (c) It is in Welcome Creek.

(ii) Unless covered by Rule 12.3.1A.1, the damming of water in the Waitaki catchment, except in Welcome Creek, to which this rule applies is a *restricted discretionary* activity provided that by itself or in combination with any other take, use, dam, or diversions, the sum of the annual volumes authorised by resource consent, does not exceed the allocation to activities set out in Table 12.1.4.2.

(iii) The damming of water within a wetland for the purpose of wetland restoration or enhancement is a *restricted discretionary* activity, unless;

- (a) It is prohibited by Rules 12.3.1.1 to 12.3.1.4; or
- (b) It is permitted by Rules 12.3.2.1 to 12.3.2.3.

In considering any resource consent for the damming of water in terms of this rule, the Otago Regional Council will restrict the exercise of its discretion to the following matters:

- (a) Any adverse effects of continuing or discontinuing the damming of water on:
 - (i) Any natural or human use value identified in Schedule 1 for any affected water body including the impoundment itself;
 - (ii) The natural character of any affected water body including the impoundment itself;
 - (iii) Any amenity value supported by any affected water body including the impoundment itself;
 - (iv) Any heritage value associated with any affected water body including the impoundment itself; and
 - (v) Any existing lawfully established take or damming of water; and
- (b) Any effect on any Regionally Significant Wetland, or on any regionally significant wetland value; and
- (c) In the case of an application under Rule 12.3.3.1(iii):
 - (i) Any adverse effects on any existing lawfully established take, use, diversion or damming of water; and
 - (ii) Any effect on any wetland or any wetland value; and
- (d) Any maximum or minimum level or flow of water, and the range, or rate of change, of levels or flows of water; and
- (e) Flooding, erosion, land instability, sedimentation or property damage resulting from the damming or from the discontinuation of the damming; and
- (f) Any restoration of exposed lake bed resulting from any reduction in authorised lake level; and
- (g) The purpose of the existing dam or lake level control; and
- (h) The duration of the resource consent; and
- (i) The information and monitoring requirements; and
- (j) Any financial contribution, including for regionally significant wetland values or Regionally Significant Wetlands that are adversely affected; and
- (k) Any bond; and
- (l) Any insurance or other appropriate means of remedying the effects of failure; and
- (m) Any adverse effect on any lawful priority attached to any resource consent or deemed permit; and
- (n) Whether the damming of water under a water permit should be restricted to allow the damming or taking of water under any other permit; and
- (o) The review of conditions of the resource consent; and

- (p) For resource consents in the Waitaki catchment, matters in (a) to (o) above as well as matters in Policies 6.6A.1 to 6.6A.5.

12.3.4 Discretionary activities: Resource consent required

- 12.3.4.1 (i) Except as provided for by Rules 12.3.1.1 to 12.3.3.1 and except in the Waitaki catchment, the damming or diversion of water is a *discretionary* activity.
- (ii) Unless covered by Rule 12.3.1A.1, the damming or diversion of water in the Waitaki catchment, except in Welcome Creek to which this rule applies is a *discretionary* activity provided that by itself or in combination with any other take, use, dam, or diversions, the sum of the annual volumes authorised by resource consent, does not exceed the allocation to activities set out in Table 12.1.4.2. In considering an application to which this rule applies the consent authority will have regard, among other matters, to Policies 6.6A.1 to 6.6A.5.

12.3.5 [*Moved to 12.3.1A – 1 October 2013*]

Principal reasons for adopting

The damming or diversion of water can only occur if it is expressly allowed by a rule in a regional plan or any proposed regional plan, or by a resource consent (Section 14(3) of the Resource Management Act).

The Water Conservation (Kawarau) Order and the Lake Wanaka Preservation Act prohibit the damming of water. The Pomahaka River and Tributaries and Lower Clutha River Local Water Conservation Notice, deleted by this Plan, also prohibited the damming of water. It is therefore appropriate to prohibit the damming of the same waters within this Plan, as provided for by Rules 12.3.1.1 to 12.3.1.3.

Rule 12.3.1.4 is adopted to prohibit the diversion of water from Lake Tuakitoto when the minimum level established by this Plan is in force. This rule continues the minimum lake level already established to protect the lake's recreational and wildlife features by The Local Water Conservation (Lake Tuakitoto) Notice, 1991.

The damming or diversion of water under Rules 12.3.2.1 to 12.3.2.3, will have no more than minor adverse effects on the natural and human use values supported by water bodies, or on any other person. These rules are adopted to enable small dams or diversions while providing protection for those values and the interests of those people. Any other activity involving the damming or diversion of water is either a restricted discretionary activity, a discretionary activity or a non-complying activity in order that any adverse effects can be assessed. Non-complying activity Rules 12.3.1A.2 and 12.3.1A.3 were added to this Plan by the Waitaki Catchment Water Allocation Regional Plan.

12.4 Discharge of stormwater [*Repealed – 1 May 2014*]

12.4.1 *[Repealed – 1 May 2014]*

12.4.1.1 *[Renumbered as 12.B.1.8 – 1 May 2014]*

12.4.1.2 *[Renumbered as 12.B.1.9 – 1 May 2014]*

12.4.2 *[Repealed – 1 May 2014]*

12.4.2.1 *[Renumbered as 12.B.3.1 – 1 May 2014]*

12.5 Discharge of drainage water *[Repealed – 1 May 2014]*

12.5.1 *[Repealed – 1 May 2014]*

12.5.1.1 *[Repealed – 1 May 2014]*

12.5.2 *[Repealed – 1 May 2014]*

12.5.2.1 *[Repealed – 1 May 2014]*

12.6 Discharge of human sewage *[Renumbered as 12.A – 1 May 2014]*

12.6.1 *[Renumbered as 12.A.1 – 1 May 2014]*

12.6.1.1 *[Renumbered as 12.A.1.1 – 1 May 2014]*

12.6.1.2 *[Renumbered as 12.A.1.2 – 1 May 2014]*

12.6.1.3 *[Renumbered as 12.A.1.3 – 1 May 2014]*

12.6.1.4 *[Renumbered as 12.A.1.4 – 1 May 2014]*

12.6.2 *[Renumbered as 12.A.2 – 1 May 2014]*

12.6.2.1 *[Renumbered as 12.A.2.1 – 1 May 2014]*

12.7 Discharge of pesticides *[Repealed – 1 May 2014]*

12.7.1 *[Amended to 12.B.1 – 1 May 2014]*

12.7.1.1 *[Amended to 12.B.1.1 – 1 May 2014]*

12.7.1.2 *[Amended to 12.B.1.2 – 1 May 2014]*

12.7.1.3 *[Renumbered as 12.B.1.3 – 1 May 2014]*

12.7.1.4 *[Amended to 12.B.1.4 – 1 May 2014]*

12.7.2 *[Repealed – 1 May 2014]*

12.7.2.1 *[Repealed – 1 May 2014]*

12.A Discharge of human sewage

12.A.A General Rules for section 12.A

12.A.A.1 The discharge rules in section 12.A apply where a discharge contains human sewage.

Note: The approval of particular technologies for the on-site treatment of human sewage under particular land conditions will usually require the involvement of the relevant city or district council, under the Building Act 2004 or the Health Act 1956. This Plan deals only with the effect of the discharge on the environment, and does not promote any particular technology or treatment method.

12.A.1 Permitted activities: No resource consent required

12.A.1.1 The discharge of human sewage into land from an existing long-drop toilet is a *permitted* activity, providing:

- (a) The discharge was lawfully carried out without resource consent prior to 28 February 1998; and
- (b) There is no direct discharge of human sewage, or effluent derived from it, to water in any water body, drain, water race, or the coastal marine area.

12.A.1.2 The discharge of human sewage into land from any long-drop toilet constructed after 28 February 1998 is a *permitted* activity, providing:

- (a) The toilet is sited more than 50 metres from any surface water body or mean high water springs; and
- (b) The toilet is sited more than 50 metres from any bore which:
 - (i) Existed before the commencement of the discharge associated with the long-drop toilet; and
 - (ii) Is used to supply water for domestic needs or drinking water for livestock; and
- (c) The discharge does not occur within any Groundwater Protection Zone, as identified on the C-series maps, nor in the area of the Lake Hayes catchment as identified on Map B6; and;
- (d) There is no direct discharge of human sewage, or effluent derived from it, to water in any drain or water race, or to groundwater; and
- (e) The toilet is constructed so that no runoff enters the hole.

12.A.1.3 The discharge of human sewage through any existing on-site waste water treatment system onto or into land is a *permitted* activity, providing:

- (a) The discharge was lawfully carried out without resource consent prior to 28 February 1998; and

- (b) There is no direct discharge of human sewage, or effluent derived from it, to water in any water body, drain, water race, or the coastal marine area; and
- (c) Effluent from the system does not run off to any other person's property; and
- (d) The discharge does not cause flooding of any other person's property, erosion, land instability, sedimentation or property damage.

12.A.1.4 The discharge of human sewage through any on-site waste water treatment system, installed after 28 February 1998, onto or into land is a **permitted** activity, providing:

- (a) The discharge does not exceed 2000 litres per day (calculated as a weekly average); and
- (b) The discharge does not occur within the A zone of any Groundwater Protection Zone, as identified on the C-series maps, nor in the area of the Lake Hayes catchment, as identified on Map B6; and
- (c) The system's disposal field is sited more than 50 metres from any surface water body or mean high water springs; and
- (d) The system's disposal field is sited more than 50 metres from any bore which:
 - (i) Existed before the commencement of the discharge activity; and
 - (ii) Is used to supply water for domestic needs or drinking water for livestock; and
- (e) There is no direct discharge of human sewage, or effluent derived from it, to water in any drain or water race, or to groundwater; and
- (f) Effluent from the system does not run off to any other person's property; and
- (g) The discharge does not cause flooding of any other person's property, erosion, land instability, sedimentation or property damage.

12.A.2 Discretionary activities: Resource consent required

12.A.2.1 Except as provided for by Rules 12.A.1.1 to 12.A.1.4, the discharge of human sewage to water, or onto or into land in circumstances where it may enter water, is a **discretionary** activity.

Principal reasons for adopting

The discharge of human sewage to water can only occur if it is expressly allowed by a rule in a regional plan or any proposed regional plan, by a resource consent, or by regulation (Section 15(1) of the Resource Management Act). The discharge of human sewage to land (under conditions that ensure it does not enter water)

cannot be carried out in a manner that contravenes a rule in a regional plan or proposed regional plan (Section 15(2) of the Resource Management Act).

The discharge of human sewage to land under Rules 12.A.1.1 to 12.A.1.4, will have no more than minor adverse effects on the natural and human use values supported by water bodies, or on any other person, because contaminants are unlikely to reach water bodies. These rules are adopted to enable human sewage to be discharged while providing protection for those values and the interests of those people. Any other activity involving the discharge of human sewage, is a discretionary activity in order that any adverse effects can be assessed.

12.B Discharge of hazardous substances, hazardous wastes, specified contaminants, and stormwater; and discharges from industrial or trade premises and consented dams

12.B.A General Rules for section 12.B

12.B.A.1 The discharge rules in section 12.B apply where a discharge:

- (a) Contains a contaminant provided for in section 12.B; or
- (b) Is from an industrial or trade premises or consented dam.

12.B.A.2 The discharge rules in section 12.A apply in addition to 12.B where a discharge contains human sewage.

12.B.1 Permitted activities: No resource consent required

12.B.1.1 The discharge of any herbicide to water for the control of aquatic plants is a *permitted* activity, providing:

- (a) The herbicide and any associated additive are authorised for aquatic use in New Zealand, and are used in accordance with the authorisation; and
- (b) The discharge is carried out in accordance with any manufacturers' directions and is carried out by a person who holds a GROWSAFE Registered Chemical Applicator certificate; and
- (c) The herbicide is applied in the form of a gel; and
- (d) The discharge is for the purpose of controlling aquatic plants and does not exceed the quantity, concentration or rate required for that purpose; and
- (e) No lawful take of water is adversely affected as a result of the discharge; and
- (f) The discharger notifies, at least one week before commencing the discharge:
 - (i) Every person taking water for domestic supply, and every holder of a resource consent or deemed permit for the taking of water within one kilometre downstream of the proposed discharge in any river or

water race, or within one kilometre of the proposed discharge in any lake; and

- (ii) The community through Public Notice, where the discharge will occur directly into a lake, river or any Regionally Significant Wetland.

12.B.1.2 Except as provided for by Rule 12.B.1.1, the land-based discharge of any pesticide onto land is a *permitted* activity, providing:

- (a) The pesticide is authorised for use in New Zealand and is used in accordance with the authorisation; and
- (b) The discharge is carried out in accordance with any manufacturers' directions; and
- (c) The discharge is for the purpose of controlling animals, plants or other organisms and does not exceed the quantity, concentration or rate required for that purpose; and
- (d) There is no direct discharge of the pesticide to water in any water body, drain, water race or the coastal marine area; and
- (e) There is no damage to fauna, or New Zealand native flora, in or on any Regionally Significant Wetland.

12.B.1.3 The discharge of herbicide to air or land in circumstances where it will enter water, is a *permitted* activity, providing:

- (a) The herbicide and any associated additive are authorised for use in or over water in New Zealand and are used in accordance with the authorisation; and
- (b) The use is carried out in accordance with any manufacturers' directions; and
- (c) The discharge is for the purpose of controlling plants and does not exceed the quantity, concentration or rate required for that purpose; and
- (d) All reasonable measures are taken to minimise any direct discharge of the herbicide to water in any water body, drain, water race, or to the coastal marine area; and
- (e) No lawful take of water is adversely affected as a result of the discharge; and
- (f) The discharger notifies, at least one week before commencing the discharge:
 - (i) Every person taking water for domestic supply, and every holder of a resource consent or deemed permit for the taking of water within one kilometre downstream of the proposed discharge alongside any river or water race, or within one kilometre of the proposed discharge alongside any lake; and
 - (ii) The community through Public Notice, where the

discharge will occur directly into any lake, river or any Regionally Significant Wetland; and

- (g) There is no damage to fauna, or New Zealand native flora, in or on any Regionally Significant Wetland.

12.B.1.4 Except as provided for by Rule 12.B.1.3, the aerial discharge of any pesticide onto land in circumstances where it, or any contaminant associated with its breakdown, may enter water, is a *permitted* activity, providing:

- (a) The pesticide is authorised for use in New Zealand and is used in accordance with the authorisation; and
- (b) The discharge is carried out in accordance with any manufacturers' directions, by a person who holds a GROWSAFE Pilots Chemical Rating certificate; and
- (c) The discharge is for the purpose of controlling animals, plants or other organisms and does not exceed the quantity, concentration or rate required for that purpose; and
- (d) All reasonable measures are taken to prevent any discharge of the pesticide within 20 metres of water in any water body, drain or water race, or of the coastal marine area; and
- (e) There is no damage to fauna, or New Zealand native flora, in or on any Regionally Significant Wetland.

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

- (a) All reasonable measures are taken to minimise any discharge of the fertiliser to water in any water body, drain or water race, or to the coastal marine area; and
- (b) The discharge is carried out in accordance with the manufacturer's directions; and
- (c) There is no damage to fauna or New Zealand native flora, in or on any Regionally Significant Wetland.

12.B.1.6 The discharge of sullage, cooling water or water from any drinking-water supply reservoir, water supply pipeline or swimming pool to water, or onto or into land in circumstances where it may enter water, is a *permitted* activity, providing:

- (a) The discharge does not contain:
 - (i) A greater concentration of faecal coliforms than that of the receiving water, or a concentration that could cause the faecal coliform concentration of the receiving water, after reasonable mixing, to exceed 150 CFU per 100 mls; or
 - (ii) Any disinfectant, antiseptic or pesticide; or

- (iii) Any residual flocculant, except for aluminium at acid-soluble aluminium concentrations less than 0.1 grams per cubic metre; or
- (iv) Any free or residual chlorine at the point where the discharge enters water in any surface water body or mean high water springs; or
- (v) Human sewage; or
- (vi) Any hazardous substance; and
- (b) The discharge does not increase the natural temperature of the receiving water, after reasonable mixing, by more than 3° Celsius, and does not cause the temperature of the receiving water, after reasonable mixing, to rise above 25° Celsius; and
- (c) The discharge does not increase the suspended solids levels in the receiving water, after reasonable mixing, by more than 10 grams per cubic metre; and
- (d) The discharge does not change the pH of the receiving water, after reasonable mixing, by more than 0.5 pH units; and
- (e) The discharge does not, after reasonable mixing, give rise to any significant adverse effect on aquatic life; and
- (f) The discharge does not cause flooding of any other person's property, erosion, land instability, sedimentation or property damage; and
- (g) There is no change to the water level range or hydrological function of any Regionally Significant Wetland; and
- (h) There is no damage to fauna, or New Zealand native flora, in or on any Regionally Significant Wetland.

12.B.1.7 The discharge of water which has been used for the purpose of holding live organisms to water, or onto or into land in circumstances where it may enter water, is a *permitted* activity, providing:

- (a) There is no change to the water level range or hydrological function of any Regionally Significant Wetland; and
- (b) There is no damage to fauna, or New Zealand native flora, in or on any Regionally Significant Wetland; and
- (c) No contaminant has been added that is toxic to the aquatic life of the receiving water body; and
- (d) The discharge contains no pest plant material (as identified in the Pest Management Strategy for Otago 2001); and
- (e) The discharge does not increase the natural temperature of the receiving waters, after reasonable mixing, by more than 3° Celsius, and does not cause the temperature of the receiving water, after reasonable mixing, to rise above 25° Celsius; and

- (f) The discharge does not increase the suspended solids levels in the receiving water, after reasonable mixing, by more than 10 grams per cubic metre; and
- (g) The discharge does not, after reasonable mixing, give rise to any significant adverse effect on aquatic life; and
- (h) The discharge does not cause flooding of any other person's property, erosion, land instability, sedimentation or property damage.

12.B.1.8 The discharge of stormwater from a reticulated stormwater system to water, or onto or into land in circumstances where it may enter water, is a *permitted* activity, providing:

- (a) Where the system is lawfully installed, or extended, after 28 February 1998:
 - (i) The discharge is not to any Regionally Significant Wetland; and
 - (ii) Provision is made for the interception and removal of any contaminant which would give rise to the effects identified in Condition (d) of this rule; and
- (b) The discharge does not contain any human sewage; and
- (c) The discharge does not cause flooding of any other person's property, erosion, land instability, sedimentation or property damage; and
- (d) The stormwater discharged, after reasonable mixing, does not give rise to all or any of the following effects in the receiving water:
 - (i) The production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials; or
 - (ii) Any conspicuous change in the colour or visual clarity; or
 - (iii) Any emission of objectionable odour; or
 - (iv) The rendering of fresh water unsuitable for consumption by farm animals; or
 - (v) Any significant adverse effects on aquatic life.

12.B.1.9 The discharge of stormwater from any road not connected to a reticulated stormwater system to water, or onto or into land, is a *permitted* activity, providing:

- (a) The discharge does not cause flooding of any other person's property, erosion, land instability, sedimentation or property damage; and
- (b) Where the road is subject to works, provision is made for the interception of any contaminant to avoid, after reasonable mixing, the following effects in the receiving water:

- (i) The production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials; or
- (ii) Any conspicuous change in the colour or visual clarity; or
- (iii) Any emission of objectionable odour; or
- (iv) The rendering of fresh water unsuitable for consumption by farm animals; or
- (v) Any significant adverse effects on aquatic life.

12.B.1.10 The discharge of any contaminant, excluding settled sediment, present in water impounded by a dam that is not permitted by Rule 13.2.1.3, to water in a lake or river, is a *permitted* activity, providing:

- (a) The purpose of the dam is not for the storage of contaminants; and
- (b) The dam operator has not caused the contaminant to be discharged into the dam from which it is discharged; and
- (c) The discharge, after reasonable mixing does not give rise to all or any of the following effects:
 - (i) The production of any conspicuous oil or grease films, scum or foams, or floatable or suspended materials; or
 - (ii) Any conspicuous change in colour or visual clarity; or
 - (iii) Any emission of objectionable odour; or
 - (iv) The rendering of fresh water unsuitable for consumption by farm animals; or
 - (v) Any significant adverse effect on aquatic life; and
- (d) The discharge ceases when an enforcement officer of the Otago Regional Council requires the discharge to cease to provide for clean-up operations and prevent adverse effects on the environment.

12.B.1.11 Except as provided for by Rule 12.B.1.10, the discharge of a trace amount of any contaminant, originating from within a hydro-electric power structure, into water, is a *permitted* activity.

12.B.2 Controlled activities: Resource consent required but always granted

12.B.2.1 The discharge of tracer dye to water is a *controlled* activity, providing it is chemically inert, non-radioactive, and non-toxic.

In granting any resource consent for the discharge of tracer dye in terms of this rule, the Otago Regional Council will restrict the exercise of its control to the following:

- (a) Any adverse effects of the discharge 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; and
- (iii) Any amenity value supported by any affected water body; and
- (b) Any adverse effect on an existing lawful take of water; and
- (c) The location and timing of the discharge; and
- (d) The nature of the dye; and
- (e) The duration of the resource consent; and
- (f) The information and monitoring requirements; and
- (g) Any bond; and
- (h) The review of conditions of the resource consent.

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.

12.B.3 Restricted discretionary activities: Resource consent required

- 12.B.3.1 Except as provided for by Rules 12.B.1.8 and 12.B.1.9, the discharge of stormwater to water, or onto or into land in circumstances where it may enter water, is a *restricted discretionary* activity.

In considering any resource consent for the discharge of stormwater 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 discharge on:
 - (i) Any natural and human use value identified in Schedule 1 for any affected water body;
 - (ii) The natural character of any affected water body;
 - (iii) Any amenity value supported by any affected water body; and
 - (iv) Any heritage value associated with any affected water body; and
- (b) Any effect on any Regionally Significant Wetland or on any regionally significant wetland value; and
- (c) Any financial contribution for regionally significant wetland values or Regionally Significant Wetlands that are adversely affected; and
- (d) The volume, rate and method of the discharge; and
- (e) The nature of the discharge; and
- (f) Treatment options; and

- (g) The location of the discharge point or area, and alternative receiving environments; and
- (h) The likelihood of erosion, land instability, sedimentation or property damage resulting from the discharge of stormwater; and
- (i) The potential for soil contamination; and
- (j) The duration of the resource consent; and
- (k) The information and monitoring requirements; and
- (l) Any bond; and
- (m) Any existing lawful activity associated with any affected water body; and
- (n) The review of conditions of the resource consent.

12.B.4 Discretionary activities: Resource consent required

- 12.B.4.1 The discharge of water (excluding stormwater) or any contaminant from an industrial or trade premises or a consented dam to water or to land is a *discretionary* activity, unless it is permitted by Rule 12.B.1.6, 12.B.1.7, 12.B.1.10 or 12.B.1.11.
- 12.B.4.2 The discharge of any hazardous substance to water or onto or into land in circumstances which may result in that substance entering water is a *discretionary* activity, unless it is:
 - (a) Permitted by a rule in 12.B.1; or
 - (b) Provided for by a rule in 12.B.2 or 12.B.3.
- 12.B.4.3 The discharge of water or any contaminant covered in section 12.B.1 or 12.B.2, to water or onto or into land in circumstances which may result in that water or contaminant entering water, is a *discretionary* activity, unless it is:
 - (a) Permitted by a rule in 12.B.1; or
 - (b) Provided for by a rule in 12.B.2, 12.B.3, 12.B.4.1 or 12.B.4.2.

12.8 Discharge of agricultural waste and fertiliser *[Repealed – 1 May 2014]*

12.8.1 *[Repealed – 1 May 2014]*

12.8.1.1 *[Repealed – 1 May 2014]*

12.8.1.2 *[Repealed – 1 May 2014]*

12.8.1.3 *[Repealed – 1 May 2014]*

12.8.1.4 *[Repealed – 1 May 2014]*

12.8.1.5 *[Renumbered as 12.B.1.5 – 1 May 2014]*

12.8.2 *[Repealed – 1 May 2014]*

12.8.2.1 *[Repealed – 1 May 2014]*

12.8.3 *[Repealed – 1 May 2014]*

12.8.3.1 *[Repealed – 1 May 2014]*

12.9 Discharges from drilling and bore testing *[Repealed – 1 May 2014]*

12.9.1 *[Repealed – 1 May 2014]*

12.9.1.1 *[Repealed – 1 May 2014]*

12.9.1.2 *[Repealed – 1 May 2014]*

12.9.2 *[Repealed – 1 May 2014]*

12.9.2.1 *[Repealed – 1 May 2014]*

12.10 Discharges from vessels *[Repealed – 1 May 2014]*

12.10.1 *[Repealed – 1 May 2014]*

12.10.1.1 *[Repealed – 1 May 2014]*

12.10.2 *[Repealed – 1 May 2014]*

12.10.2.1 *[Repealed – 1 May 2014]*

12.11 Discharge of water or tracer dye *[Repealed – 1 May 2014]*

12.11.1 *[Repealed – 1 May 2014]*

12.11.1.1 *[Repealed – 1 May 2014]*

12.11.2 *[Repealed – 1 May 2014]*

12.11.2.1 *[Renumbered as 12.B.1.6 – 1 May 2014]*

12.11.2.2 *[Renumbered as 12.B.1.7 – 1 May 2014]*

12.11.2.3 *[Repealed – 1 May 2014]*

12.11.3 *[Repealed – 1 May 2014]*

12.11.3.1 *[Renumbered as 12.B.2.1]*

12.12 Discharges from dams and reservoirs *[Repealed – 1 May 2014]*

12.12.1 *[Repealed – 1 May 2014]*

12.12.1.1 *[Renumbered as 12.B.1.10 – 1 May 2014]*

12.12.1.2 *[Renumbered as 12.B.1.11 – 1 May 2014]*

12.13 Other discharges *[Repealed – 1 May 2014]*

12.13.1 *[Repealed – 1 May 2014]*

12.13.1.1 *[Repealed – 1 May 2014]*

12.C Other discharges

12.C.A.1 Discharge rules in section 12.C apply to any discharge not provided for in sections 12.A, 12.B or 13.5.

12.C.A.2 Within section 12.C, prohibited activity rules prevail over any permitted, controlled, restricted discretionary and discretionary activity rules.

Note: Rules applying to plantation forestry:

- Refer to the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017:
<http://www.legislation.govt.nz/regulation/public/2017/0174/latest/whole.html>
- Refer to Schedule 17: Rules applying to plantation forestry in Otago.
- Rules that apply: 12.C.1.1 (d) (e) (f), excluding (iii); 12.C.2.1; 12.C.2.2; 12.C.2.4; 12.C.3.2.

12.C.0 Prohibited activities: No resource consent will be granted

12.C.0.1 The discharge of any contaminant to water, that produces an objectionable odour, or a conspicuous oil or grease film, scum, or foam in any:

- (i) Lake, river or Regionally Significant Wetland; or
 - (ii) Drain or water race that flows to a lake, river, Regionally Significant Wetland or coastal marine area; or
 - (iii) Bore or soak hole,
- is a *prohibited* activity.

12.C.0.2 The discharge of any contaminant from an animal waste system, silage storage or a composting process:

- (i) To any lake, river or Regionally Significant Wetland; or
 - (ii) To any drain or water race that goes to a lake, river, Regionally Significant Wetland or coastal marine area; or
 - (iii) To the bed of any lake, river or Regionally Significant Wetland; or
 - (iv) To any bore or soak hole; or
 - (v) To land in a manner that results in overland flow entering any:
 - (a) Lake, river, Regionally Significant Wetland or coastal marine area that is not permitted under Rule 12.C.1.1 or 12.C.1.1A; or
 - (b) Drain or water race that goes to any lake, river, Regionally Significant Wetland or coastal marine area that is not permitted under Rule 12.C.1.1 or 12.C.1.1A; or
 - (vi) To land within 50 metres of:
 - (a) Any lake, river or Regionally Significant Wetland; or
 - (b) Any bore or soak hole; or
 - (vii) To saturated land; or
 - (viii) That results in ponding,
- is a *prohibited* activity.

- 12.C.0.3 Any discharge of sediment from disturbed land to water in any:
- (i) Lake, river or Regionally Significant Wetland; or
 - (ii) Drain or water race that flows to a lake, river, Regionally Significant Wetland or coastal marine area,
- where no measure is taken to mitigate sediment runoff, is a *prohibited* activity.

12.C.1 Permitted activities: No resource consent required

- 12.C.1.1 The discharge of water or any contaminant to water, or onto or into land in circumstances which may result in a contaminant entering water, is a *permitted* activity, providing:
- (a) The discharge does not result in flooding, erosion, land instability or property damage; and
 - (b) There is no discharge of water from one catchment to water in another catchment; and
 - (c) The discharge does not change the water level range or hydrological function of any Regionally Significant Wetland; and
 - (d) When the discharge, including any discharge from a drain or water race, enters water in any lake, river, wetland or the coastal marine area; the discharge:
 - (i) Does not result in:
 - (1) A conspicuous change in colour or visual clarity; or
 - (2) A noticeable increase in local sedimentation, in the receiving water (*refer to Figure 5*); and
 - (ii) Does not have floatable or suspended organic materials; and
 - (iii) Does not have an odour, oil or grease film, scum or foam; and
 - (e) When the discharge enters water in any drain⁴ that goes to a lake, river, wetland, or the coastal marine area, the discharge:
 - (i) Does not result in:
 - (1) A conspicuous change in colour or visual clarity; or
 - (2) A noticeable increase in local sedimentation, in the lake, river, wetland or the coastal marine area (*refer to Figure 6*); and
 - (ii) Does not result in the production of conspicuous

⁴ In Rules 12.C.1.1 and 12.C.1.1A, ‘drain’ includes any system of drains that goes to a lake, river, wetland or the coastal marine area.

floatable or suspended organic materials in the drain at the first of:

- (1) The downstream boundary of the landholding where the discharge occurs; or
 - (2) Immediately before the drain enters a river, lake, wetland or the coastal marine area; and
- (iii) Does not have an odour, oil or grease film, scum or foam; and
- (f) When the discharge enters water in any water race⁵ that goes to a lake, river, wetland, or the coastal marine area, the discharge:
- (i) Does not result in:
 - (1) A conspicuous change in colour or visual clarity; or
 - (2) A noticeable increase in local sedimentation, in the water race (*refer to Figure 7*); and
 - (ii) Does not result in the production of conspicuous floatable or suspended organic materials in the race at the first of:
 - (1) The downstream boundary of the landholding where the discharge occurs; or
 - (2) Immediately before the race enters a river, lake, wetland or the coastal marine area; and
 - (iii) Does not have an odour, oil or grease film, scum or foam; and
- (g) From 1 April 2020, the discharge also complies with 12.C.1.1A.

⁵ In Rules 12.C.1.1 and 12.C.1.1A, ‘water race’ includes any system of water races that goes to a lake, river, wetland or the coastal marine area.

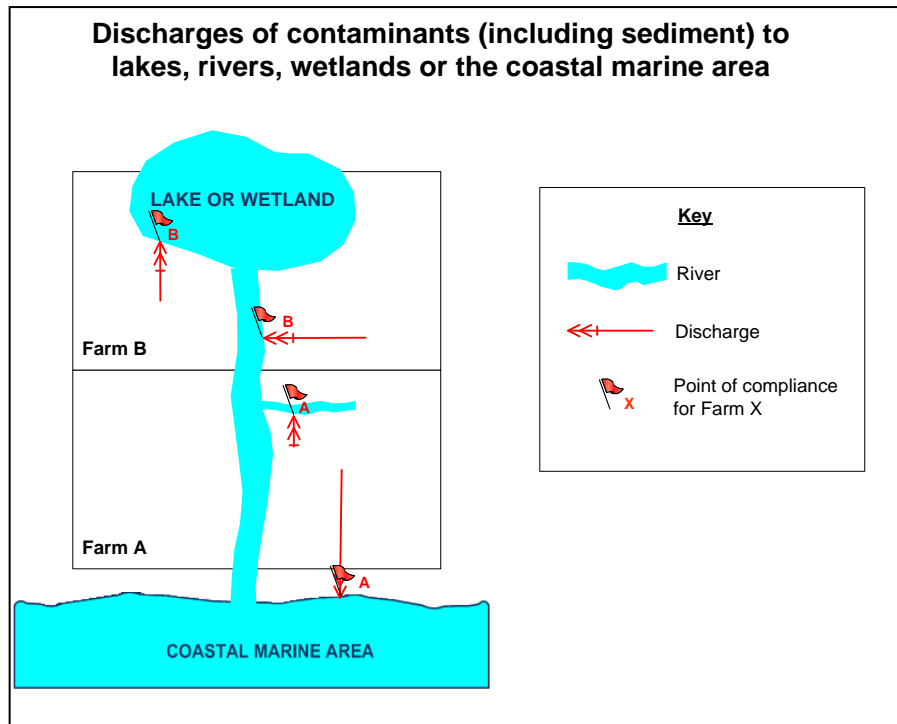


Figure 5: Implementation of Rule 12.C.1.1(d)(i)

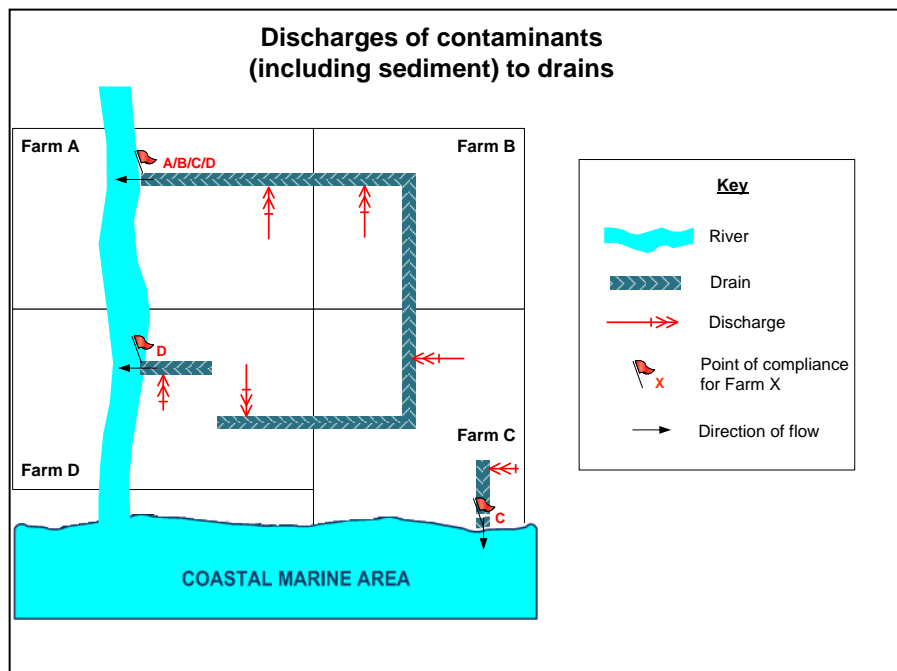


Figure 6: Implementation of Rule 12.C.1.1(e)(i)

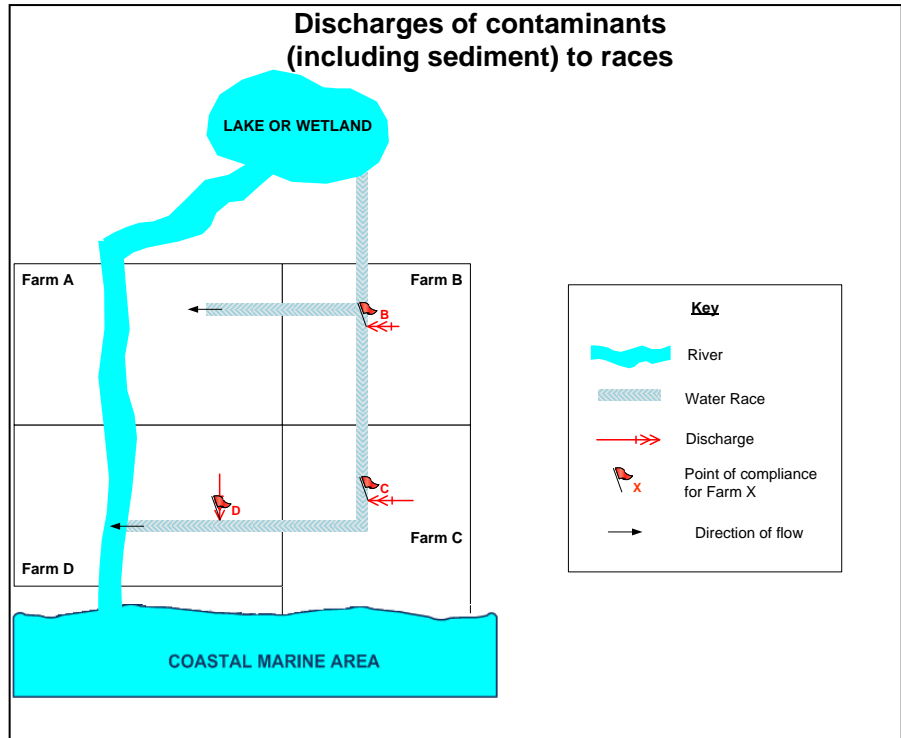


Figure 7: Implementation of Rule 12.C.1.1(f)(i)

12.C.1.1A From 1 April 2020, in addition to Rule 12.C.1.1, when the water flow at the relevant representative flow monitoring site is at or below the reference flow in Schedule 16B, the following conditions apply:

- (a) (i) If the discharge causes contaminants to first enter water in any lake, river, wetland, or the coastal marine area, the discharge does not exceed any of the thresholds in Schedule 16A immediately before entering a river, lake, wetland or the coastal marine area (*refer to Figure 8*),

except:

- (ii) If the discharge causes contaminants to first enter water in a river which originates in the landholding where the discharge occurs and which conveys irrigation run-off, then the discharge does not result in the exceedance of any of the thresholds in Schedule 16A at the first of:
 - (1) The downstream boundary of the landholding where the discharge occurs; or
 - (2) Immediately before the river joins another river, lake, wetland or the coastal marine area (*refer to Figure 9*); or

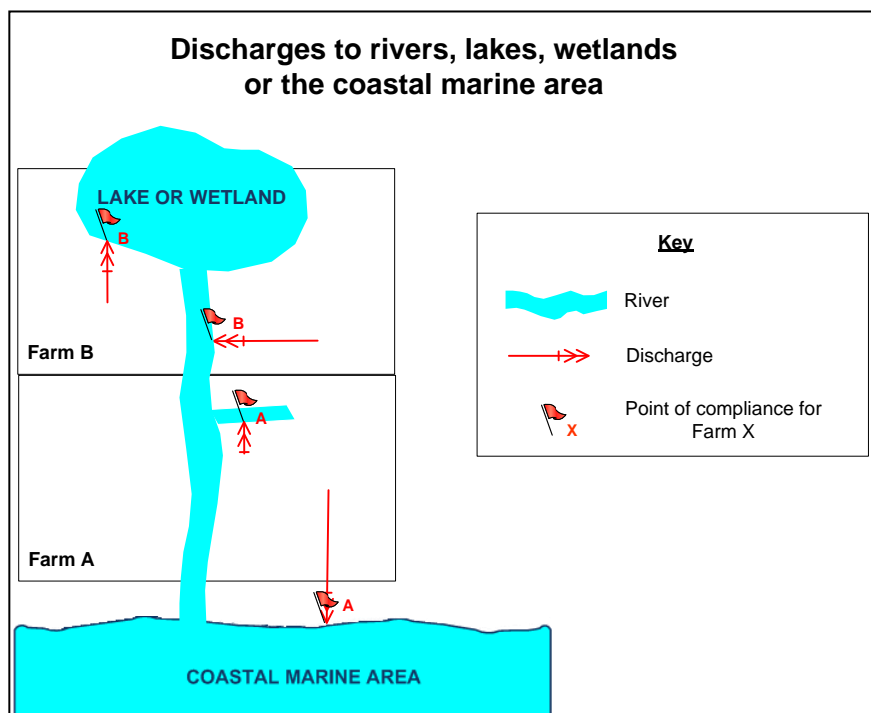


Figure 8: Implementation of Rule 12.C.1.1A(a)(i)

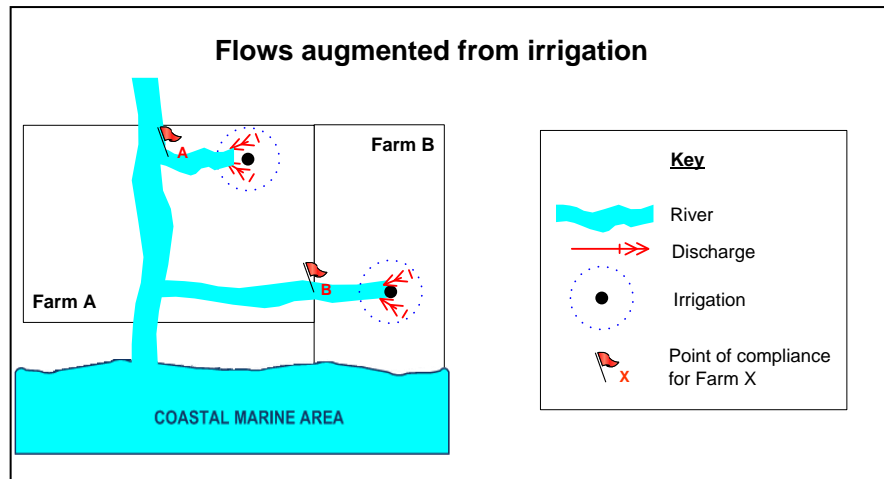


Figure 9: Implementation of Rule 12.C.1.1A(a)(ii)

- (b) If the discharge causes contaminants to first enter water in a drain that goes to a lake, river, wetland or the coastal marine area, then:
- (i) The discharge does not result in the exceedance⁶ of any of the thresholds in Schedule 16A within the drain at the first of:
 - (1) The downstream boundary of the landholding where the discharge occurs; or
 - (2) Immediately before the drain enters a river, lake, wetland or the coastal marine area (*refer to Figure 10*),
 except:
 - (ii) If all of the dischargers to the drain have advised the Council in writing that they share responsibility for discharges from that drain, contaminants in the drain do not exceed any of the thresholds in Schedule 16A immediately before the drain enters a lake, river, wetland or the coastal marine area (*refer to Figure 11*); or

⁶ In determining whether the discharge results in the exceedance of any of the thresholds in Schedule 16A, the concentration of contaminants at the upstream boundary of the landholding where the discharge occurred shall be excluded.

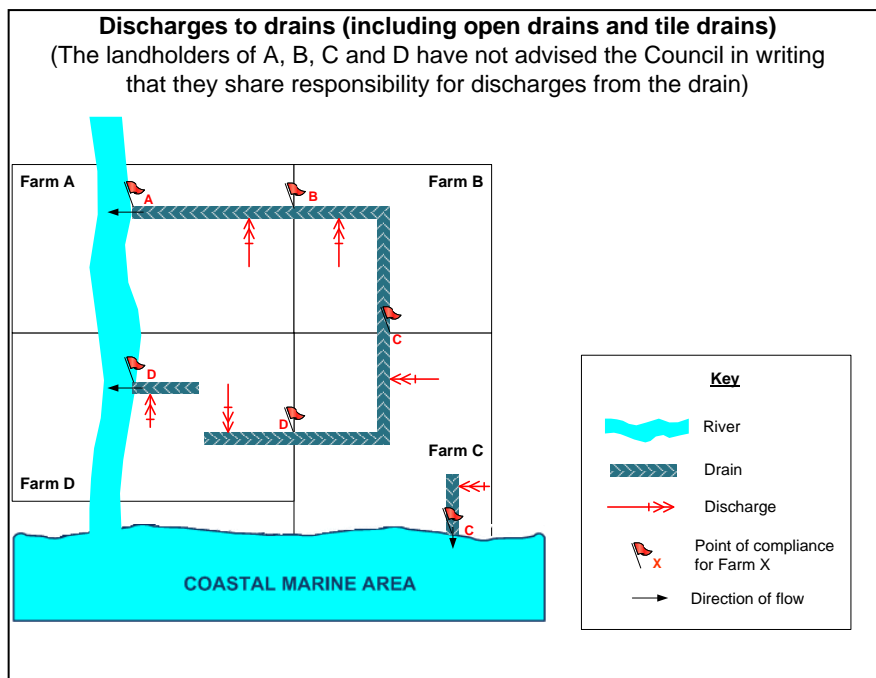


Figure 10: Implementation of Rule 12.C.1.1A(b)(i)

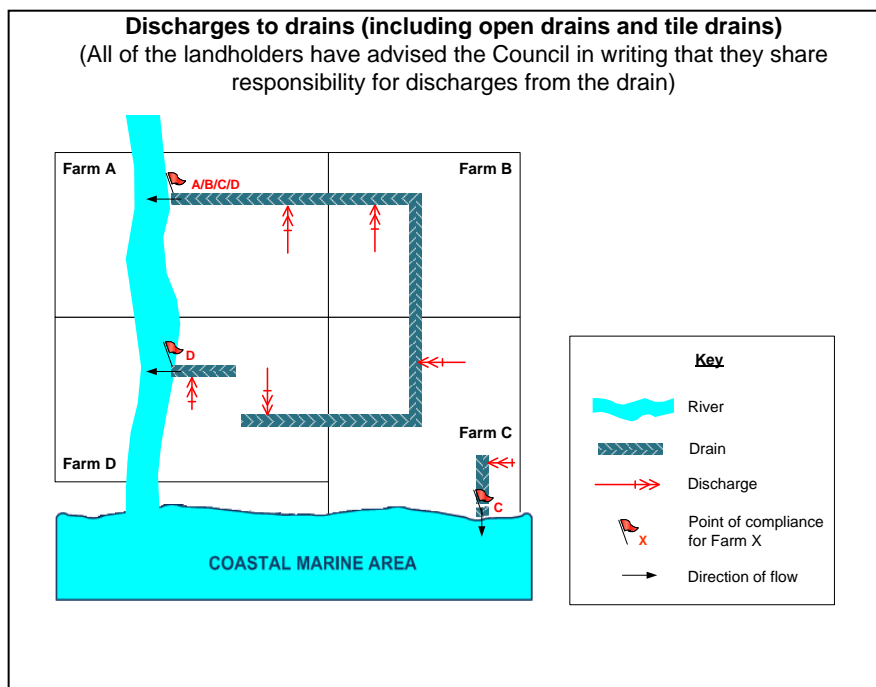


Figure 11: Implementation of Rule 12.C.1.1A(b)(ii)

- (c) If the discharge causes contaminants to first enter water in a water race that goes to a lake, river, wetland or the coastal marine area then:
- (i) (1) Any measurable discharge does not exceed any of the thresholds in Schedule 16A immediately before entering the water race; and
- (2) The cumulative contaminant discharge into the water race between the upstream boundary of the landholding where the discharge occurs and the first of:
- (a) The downstream boundary of the same landholding; or
- (b) Immediately before the water race enters a river, lake, wetland or the coastal marine area (*refer to Figure 12*),
- does not exceed any of the thresholds in Schedule 16A,

except:

- (ii) If the race operator has advised the Council in writing that it takes responsibility for discharges to the race from specified landholdings:
- (1) Paragraph (i) does not apply to discharges from those specified landholdings; and
- (2) Contaminants in the water race do not exceed any of the thresholds in Schedule 16A immediately before the race enters a lake, river, wetland or the coastal marine area (*refer to Figure 13*).

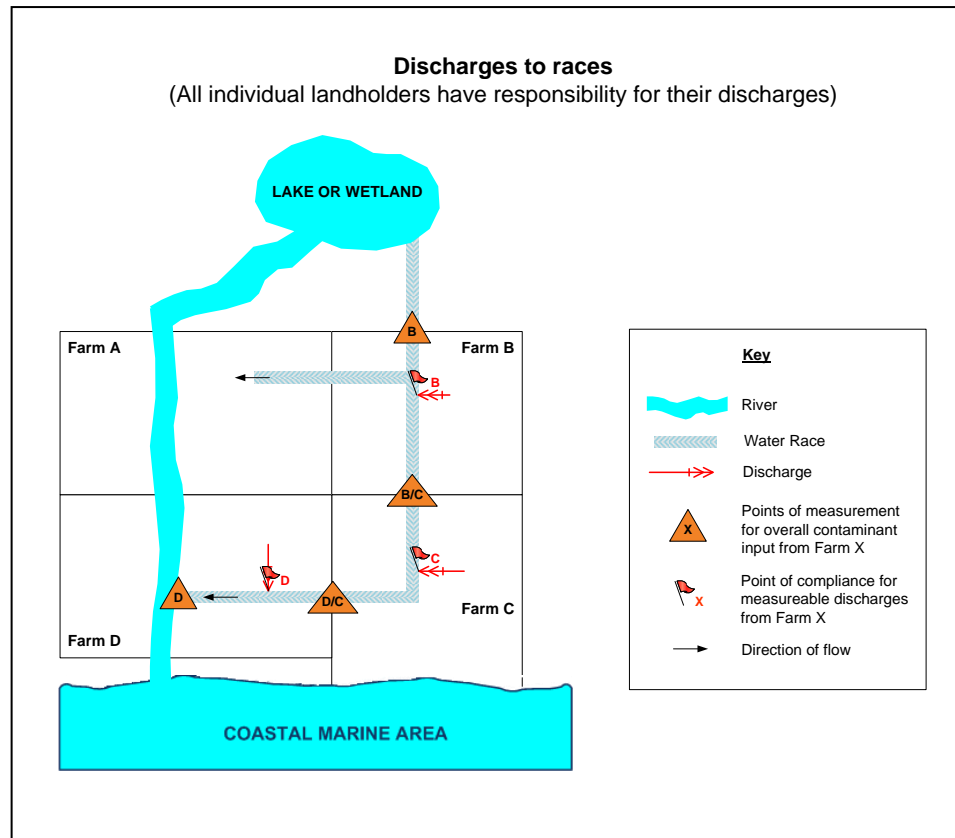


Figure 12: Implementation of Rule 12.C.1.1A(c)(i)

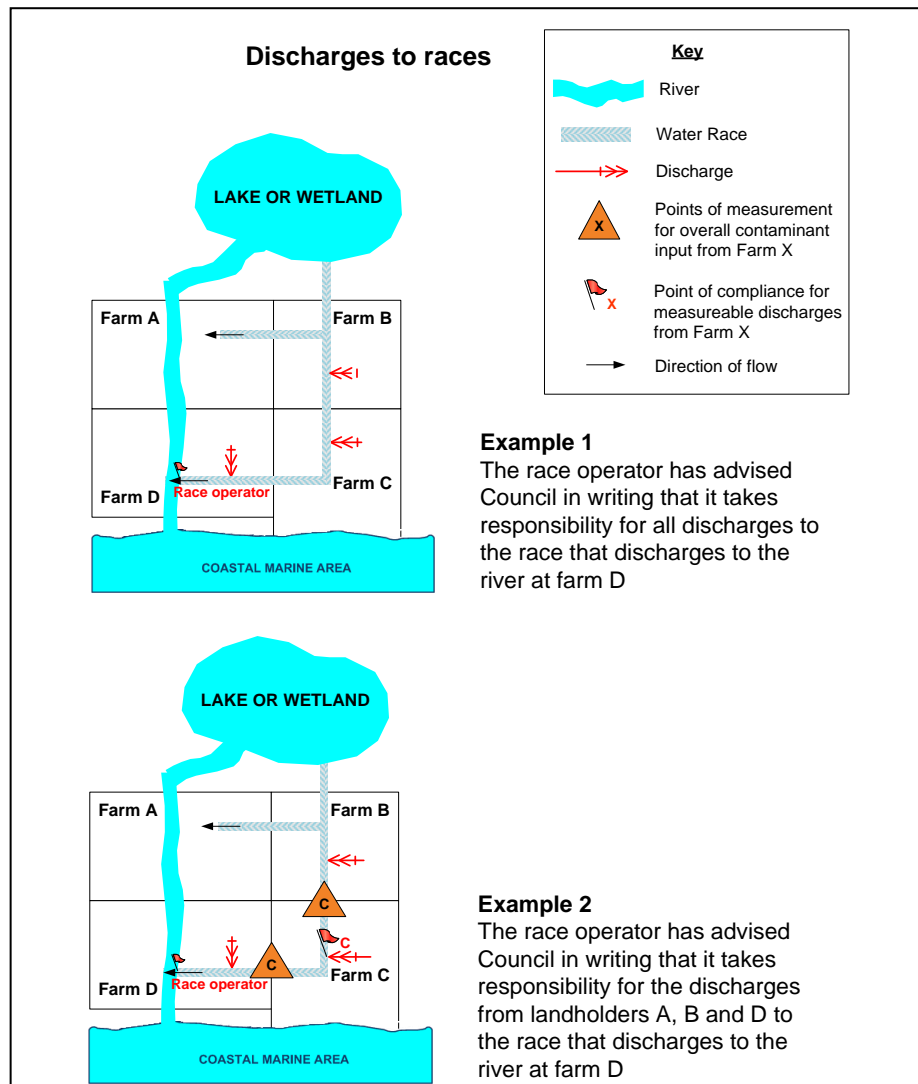


Figure 13: Implementation of Rule 12.C.1.1A(c)(ii)

12.C.1.2 Notwithstanding Rule 12.C.1.1, the discharge of water or any contaminant from the source water body through:

- (i) A water race; or
- (ii) A dam:
 - (1) Permitted under Rule 13.2.1.3; and
 - (2) Not for the purpose of the storage of contaminants, to any lake, river, wetland, or any water race or drain that flows to a lake, river or wetland, is a *permitted* activity, providing:
 - (a) The race or dam operator has not caused any contaminant to be discharged into the race or dam from which it is discharged; and
 - (b) There is no discharge of water from one catchment to water in another catchment; and
 - (c) There is no change to the water level range or hydrological function of any Regionally Significant Wetland; and
 - (d) The discharge does not:
 - (1) Result in flooding, erosion, land instability or property damage; or
 - (2) Result in a conspicuous change in colour or visual clarity; or
 - (3) Have floatable or suspended materials.

12.C.1.3 The discharge of nitrogen⁷ onto or into land in circumstances which may result in nitrogen entering groundwater, is a *permitted* activity, providing:

- (a) From 01 April 2020, the nitrogen leaching rate does not exceed:
 - (i) 15 kgN/ha/year for the total area of land managed by a landholder that is located over the relevant Nitrogen Sensitive Zone identified in Maps H5 and H6; and
 - (ii) 20 kgN/ha/year for the total area of land managed by a landholder that is located over the relevant Nitrogen Sensitive Zone identified in Maps H1 to H4; and
 - (iii) 30 kgN/ha/year for the total area of land managed by a landholder that is located outside any Nitrogen Sensitive Zone identified in Maps H1 to H6, as calculated using OVERSEER[®] version 6 by a Certified Nutrient Management Advisor in accordance with OVERSEER[®] Best Practice Data Input Standards; and

⁷ For the purpose of Rule 12.C.1.3, nitrogen comprises of organic nitrogen, ammoniacal nitrogen, nitrite nitrogen and nitrate nitrogen forms.

- (b) (i) From 1 May 2014 to 31 March 2020, the landholder for outdoor pork, fruit (excluding grapes), berry and rotational vegetable production will keep a record of all inputs into the farm system and evidence that practices complied with the relevant industry good management practices and provide Council upon request with that information. From 1 April 2020, 12.C.1.3(b)(ii) will apply; and
- (ii) From 1 May 2014, in all other cases, the landholder will:
 - (1) Maintain a record of all necessary data to run OVERSEER[®] version 6; and
 - (2) Provide Council upon request with:
 - (a) All necessary data to run OVERSEER[®] version 6; or
 - (b) Any available OVERSEER[®] version 6 output and input parameter report prepared by a Certified Nutrient Management Advisor in accordance with OVERSEER[®] Best Practice Data Input Standards.

12.C.2 Restricted discretionary activities: Resource consent required

12.C.2.1 The discharge of water or any contaminant:

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

for a period up to five years, is a *restricted discretionary* activity, unless the discharge:

- (a) Is prohibited by a rule in 12.C.0; or
- (b) Is permitted by Rules 12.C.1.1, 12.C.1.1A or 12.C.1.2; or
- (c) Will result in flooding, erosion, land instability or property damage; or
- (d) Is of water from one catchment to water in another catchment; or
- (e) Will change the water level range or hydrological function of any Regionally Significant Wetland; or
- (f) Has previously been authorised by resource consent granted under this rule.

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

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

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

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

for a period up to two years, from a short-term activity with a short-term effect, is a *restricted discretionary* activity, unless the discharge:

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

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

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

12.C.2.3 The discharge of nitrogen⁸ onto or into land in circumstances which may result in nitrogen entering groundwater for a period up to five years is a *restricted discretionary* activity, unless the discharge:

- (a) Is prohibited by a rule in 12.C.0; or
- (b) Is permitted by Rule 12.C.1.3, or
- (c) Has previously been authorised by a resource consent granted under this rule.

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

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

⁸ For the purpose of Rule 12.C.2.3, nitrogen comprises of organic nitrogen, ammoniacal nitrogen, nitrite nitrogen and nitrate nitrogen forms.

12.C.2.4 Restricted discretionary activity discretions

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

- (a) The nature, type, volume, frequency and location of the discharge; and
- (b) The concentration and loading of contaminants in the discharge; and
- (c) In the case of an application under Rules 12.C.2.1 and 12.C.2.3, the staged timeframe for achieving the permitted activity conditions in Rules 12.C.1.1, 12.C.1.1A or 12.C.1.3; and
- (d) In the case of an application under 12.C.2.2, the staged timeframe to address adverse effects on water quality; and
- (e) In the case of an application previously consented under Rule 12.C.2.2, compliance with conditions of the previous resource consent; and
- (f) Any change to infrastructure and the staging of implementation of those changes; and
- (g) Any adverse effect on water quality, including cumulative effects, and consideration of trends in the quality of the receiving water; and
- (h) Any adverse effect of the discharge on any natural or human use value, including Kāi Tahu values and use of the coastal marine area for contact recreation and seafood gathering; and
- (i) The need for and extent of any mixing zone; and
- (j) Any co-ordination of discharges across multiple landholdings; and
- (k) The extent to which the contaminant results from the activities of the applicant; and
- (l) Any effect on any Regionally Significant Wetland or on any regionally significant wetland value; and
- (m) Any erosion, land instability, sedimentation or property damage resulting from the discharge; and
- (n) Any financial contribution for any Regionally Significant Wetland or on any regionally significant wetland value; and
- (o) The information and monitoring requirements; and
- (p) The duration of the resource consent; and
- (q) The review of conditions of the resource consent.

12.C.3 Discretionary activities: Resource consent required

12.C.3.1 The discharge of water from one catchment to water in another catchment is a *discretionary* activity.

12.C.3.2 The discharge of water or any contaminant:

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

is a *discretionary* activity, unless it is:

- (a) Prohibited by a rule in 12.C.0; or
- (b) Permitted by a rule in 12.C.1; or
- (c) Provided for by a rule in 12.C.2.

R U L E S : W A T E R T A K E , U S E A N D M A N A G E M E N T

