

**BEFORE THE COMMISSIONERS ON BEHALF OF  
THE OTAGO REGIONAL COUNCIL**

Consent No. RM16.093.01  
Consent No. RM18.345.01

**BETWEEN**

**CRIFFEL WATER LIMITED**

**LUGGATE IRRIGATION LTD**

**LAKE MCKAY STATION LTD**

**Applicant**

**AND**

**OTAGO REGIONAL COUNCIL**

**Consent Authority**

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**REBUTTAL EVIDENCE OF KATE LOUISE SCOTT**

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**REBUTTAL EVIDENCE OF KATE LOUISE SCOTT**

1. My full name is Kate Louise Scott.
2. I am the founder and Executive Director of Landpro Limited. My qualifications, experience, and acceptance of the Code of Conduct for Expert Witnesses are set out in my primary evidence. I confirm that this rebuttal evidence is likewise prepared in accordance with the Code.
3. This evidence responds to the statement of evidence of Paul Whyte dated 15 October 2019. In particular Mr Whyte discusses the concept of a minimum flow in his paragraphs 32 to 43.
4. This evidence also addresses the response to questions for the s42A authors dated 11 October 2019, especially in relation to the questions for the applicants as detailed in the response.
5. I am not an ecologist and so am unable to express any opinion on the ecological suitability of the minimum flow of 180 litres per second (irrigation season) for Longfin Eel set out in schedule 2A of the RPW for the Luggate Catchment. That matter is addressed by Dr Jowett, Dr Allibone, and Mr Hickey.
6. I note that the decision of the Environment Court in *Infinity Investment Group Holdings Limited v Canterbury Regional Council* referred at paragraph [34] of Mr Whyte's evidence is not from the Otago region and I am not sufficiently familiar with that decision to know the extent to which the discretion reserved in the Waitaki Allocation Plan is comparable to that of the Regional Plan Water: Otago. My comments are therefore limited to the RPW that we are dealing with in the present applications.

**Setting Minimum Flows**

7. The point that Mr Whyte makes is that looking at rule 12.1.4.8, it appears to him that the minimum flow is a matter for the discretion of the hearing commission on these permit applications. I disagree. To understand why I interpret the RPWO differently, I need to explain the policy framework in Chapter 6 and how that is implemented by the rules.

8. The relevant policy framework is set out in Chapter 6 of the RPWO. That policy suite distinguishes between catchments where limits have been set in Schedule 2A, and catchments where no limit has yet been set (but it is anticipated will be set in the future). Policy 6.4.3 is directed to where Schedule 2A limits apply and says:

*“for catchments identified in schedule 2A, except as provided for by Policy 6.4.8, minimum flows are set for the purposes of restricting primary allocation takes of water.”*

9. The exception in 6.4.8 is not relevant here, because it relates to an exemption for community water supply takes identified in Schedule 1B or 3B. That is not the case in respect to the applications by Criffel Water Limited (CWL), Luggate Irrigation Company Limited (LIC) and Lake McKay Station Limited (LMS).
10. Policy 6.4.5 the RPWO specifies that minimum flows established through the specified policies “will apply to resource consents for taking water, as follows...”. I note, as a matter of interest, that policy 6.4.5(c) is a specific provision that new minimum flows will be applied to existing resource consents to take water from the Luggate catchment through a review of conditions from 128 to 132 of the Act.
11. By contrast, Policy 6.4.4 applies for the renewal of existing takes outside of Schedule 2A catchments and sets up a method for minimum flows to be imposed through Method 15.9.1.3 as set out in the RPWO.
12. What this tells us is that for Schedule 2A catchments, the scheduled minimum flow “will apply” on a renewal application, whereas for non-Schedule 2A catchments, a bespoke minimum flow will need to be calculated and imposed on each new permit “for new takes in a catchment outside Schedule 2A, until the minimum flow has been set by a plan change, the minimum flow conditions of any primary allocation consents will provide for the maintenance of aquatic ecosystems...”.
13. Rule 12.1.4.8 is not the trigger rule establishing the status for applications to take water as a primary allocation. Rule 12.1.4.8 simply lists the matters for discretion for all of rules 12.1.4.2 to 12.1.4.7 and 12.2.3.1A (the latter is ground water and not relevant here).

14. Rule 12.1.4.8 needs to be viewed in light of the rules that trigger it. The rules that trigger the activity status of restricted discretionary activity in this case is not rule 12.1.4.8, but rather 12.1.4.4 (primary allocation in Schedule 2A catchments) and 12.1.4.7 (supplementary allocation outside of Schedule 2B). I attach as Appendix 1 to this evidence a full copy of these rules.
15. The present applications are all pre 28 February 1998 permits in so far that the original predecessor permits of those being replaced all predate 1998. Rule 12.1.4.4(ii) refers to the restricted discretion set out in rule 12.1.4.8. However, rule 12.1.4.4(iii), (iv), and (v) deal expressly with the application of the minimum flows set out in Schedule 2A of the plan. In my opinion those specific rules make it clear that any permit granted under Rule 12.1.4.4 must be subject to the minimum flow set out in Schedule 2A, and so the more general list set out in Rule 12.1.4.8 does not apply where it is inconsistent with those specific rules.
16. Because rule 12.1.4.4(iii) is express that a minimum flow in Schedule 2A “shall affect the exercise of every resource consent...”, then the setting of a different minimum flow under 12.1.4.8 cannot have been contemplated as being within the restricted discretion for a Schedule 2A catchment.
17. Again, for completeness I note that Rule 12.1.4.4(iv) has a specific review rule set out in mandatory terms which would require the permits to be review where a new Schedule 2A minimum flow is set.
18. By contrast, Rule 12.1.4.6 applies to applications for permits in non-Schedule 2A catchments, and specifically notes at (iv) and (v) that minimum flows will be set on a case-by-case basis, thus it makes sense in the light of policy 6.4.4 that the setting of a minimum flow is within the restricted discretion list in rule 12.1.4.8, so as to enable it to be set on a case-by-case basis in those non Schedule 2A catchments.
19. For all these reasons I do not accept that it is either possible or appropriate to adopt a different minimum flow for the present applications by CWL, LIC, and LMS to that set out in Schedule 2A.

20. Even if it were possible to impose a different minimum flow for a Schedule 2A catchment through the consent process, I could not support doing so in this case. The reason offered for a minimum flow of 300l/s seems to relate to the potential future re-establishment of longfin eel in the catchment, which is a value that does not currently exist but might exist in future (or equally might not). It seems to me that if longfin eel are re-established in the future and become subject to a habitat constraint for which the existing Schedule 2A minimum flow is not properly managing, then the appropriate course of action at that time would be to pursue a plan change in relation to the Schedule 2A limit. The benefits and the costs of a different minimum flow must then be evaluated under Section 32 of the Act. This suite of applications is not the appropriate forum for that exercise to occur.

#### **Comments Section 42A Questions**

21. The officers have outlined that they have utilised the 90<sup>th</sup> percentile of Aqualinc in determining annual demand because the applicants do not currently have storage available. It remains unclear to me why this approach has been adopted given that the storage of water is required to give effect to the supplementary allocation block and not the primary allocation block, yet the annual demand is controlling the primary allocation.
22. It is also unclear how the 90<sup>th</sup> percentile as opposed to the maximum volume can be considered to be an efficient use of water, as not applying enough water to meet crop demand is surely just as inefficient as over applying water. Provided that environmental flows are being met, then the maximum annual allocation should be able to be utilised. The efficient use of water is an important element of the RPWO as set out in the policy framework of Chapter 6, yet there is no policy direction or rules within the Plan which specify that the 90<sup>th</sup> percentile Aqualinc should be applied to permits rather than the maximum volume of water able to be applied.
23. The response to Question 4 by the Sec 42A Authors, sets out that water which is allocated for residential development should not be able to be

utilised for irrigation in the event that residential development does not proceed. In my opinion, this is a flawed approach, as the volume of water is part of the overall primary allocation block, so how it is used should be of little concern to the ORC provided it is an efficient use of the water. Until such time as the land is occupied by residential dwellings, it is likely that the land set-aside for residential development will continued to be used for pasture production in accordance with its current use and should therefore be able to be irrigated. The applicant (LIC) would not support a condition requiring this water to be surrendered in the event that the residential development did not proceed.

24. Question 6 provides some discussion on the need for storage of water to give effect to the supplementary allocation of water. I understand from the information provided by Mr Hickey, that a proportion of the supplementary water would be able to be utilised until late December in some years, prior to needing to draw on stored water, and thus exercising the supplementary allocation is not contingent upon the installation of storage. Storage simply influences when, during the season, supplementary water is physically available to the consent holders.
25. Question 10 outlines a variety of methods which can be adopted to give effect to low flow rationing, and in response to the question by the commissioners, the authors of the Sec 42A report suggested amendments to the conditions of consent to provide greater certainty around the Low Flow Rationing Agreement. The applicants are agreeable to the amended conditions as shown in the updated conditions attached as Appendix 2 but have not as yet prepared a Low Flow Rationing Agreement between the parties. The applicants would prefer to adopt the approach set out in the amended conditions of consent, as this will enable them to draft an approach, working with the Council, which may provide for a variety of methods to be utilised to meet the minimum flow, so as to ensure maximum operational flexibility and maximum water use efficiency at times of low flow.
26. The applicants agree with the Sec 42A response to Question 13, whereby requiring the upgrade of irrigation races would be unreasonable

if a term of 10 years was imposed. If the Commissioners were of a mind to require the efficiency upgrades as a condition of consent, it is worth nothing that Fish and Game have requested that portions of the LIC race remain open due to the habitat provided for fish spawning. Secondly, it is possible to achieve an efficient race system through lining of the water races as opposed to needing to shift to an entirely closed piped system. It is also worth remembering that the volumes now sought by all applicants assumes that efficiency upgrades have been achieved. So if the consent holders do not carry out upgrades, then in the long run they will be left water-short through losses. So the system is self-regulating to a degree.

27. The final comment from the Sec 42A Authors [Page 12] sets out that a 10-year term is the best balance considering all relevant factors and the direction of Policy 6.4.19 of the RPWO. Policy 6.4.19 is focused on the certainty of effects and notes that where a council approved rationing regime will be adhered to (proposed Low Flow Sharing Agreement condition), the risks of adverse effects being unforeseen is reduced, longer duration consents may be appropriate. The applicants have demonstrated that the effects of their water take will be no more than minor, and as provided for in 6.4.19 (d) the effects are of the proposed activity are able to be adequately managed through review conditions.

### **Summary**

28. When Rule 12.1.4.8 is read in the light of the Chapter 6 policy framework and Rule 12.1.4.4(iii), it is clear to me that clauses (viii) and (ix) of the restricted discretion list relate only to catchments where no minimum flow has been set. In only those catchments a minimum flow should be set for restricting the primary allocation takes of water under Policy 6.4.4.
29. The mandatory language in the Schedule 2A catchment Policies 6.4.3 and 6.4.5 show that imposing a different minimum flow on permits is not contemplated where the minimum flow for the catchment has already been set under Schedule 2A. That is consistent with Rule 12.1.4.4(iii).
30. Where that Schedule 2A minimum flow is the subject of a review and altered through the RMA's first schedule process, then what is

anticipated is that a Section 128 review of all permits in the catchments will occur pursuant to Policy 6.4.4 and Rule 12.1.4.4(iv).

31. For these reasons I adhere to my original evidence and disagree with Mr Whyte. I do not agree that for the Luggate catchment, these applications are the occasion for re-litigating minimum flow. That has already been determined through Schedule 2A and I agree with the Section 42A officer's advice that it is not a relevant matter in this application.
32. The explanation to Policy 6.4.19 is explicit that "there needs to be good reason for Council to reduce the duration of consents from that required for the purpose of use". The starting point of 10 years in this instance appears to have been from the point at which the Council is considering notifying a plan change to bring the RPWO in line with the NPSFM, thus a shorter duration consent is appropriate. However, in my view the overall purpose of review conditions is to expressly allow for changes such as those which may arise through a plan change process to be given effect to. Regional plans will always require updating to account for changes in things like national policy direction.

Date: 22 October 2019

Name: Kate Scott

A handwritten signature in blue ink that reads "Kate Scott".

**Appendix 1 – RPWO Chapter 12 Rules**

# 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](http://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:

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

- (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,  
 Waiakarua,  
 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 m<sup>3</sup> 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  $1 \times 10^{-5}$  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](http://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:

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

- (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 drain<sup>4</sup> 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

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<sup>4</sup> 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 race<sup>5</sup> 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.

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<sup>5</sup> 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.

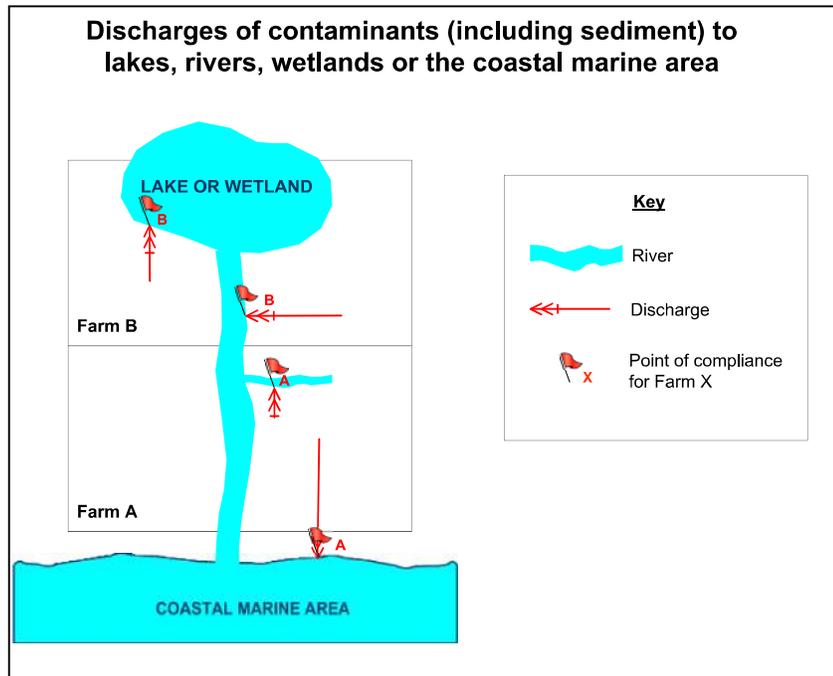


Figure 5: Implementation of Rule 12.C.1.1(d)(i)

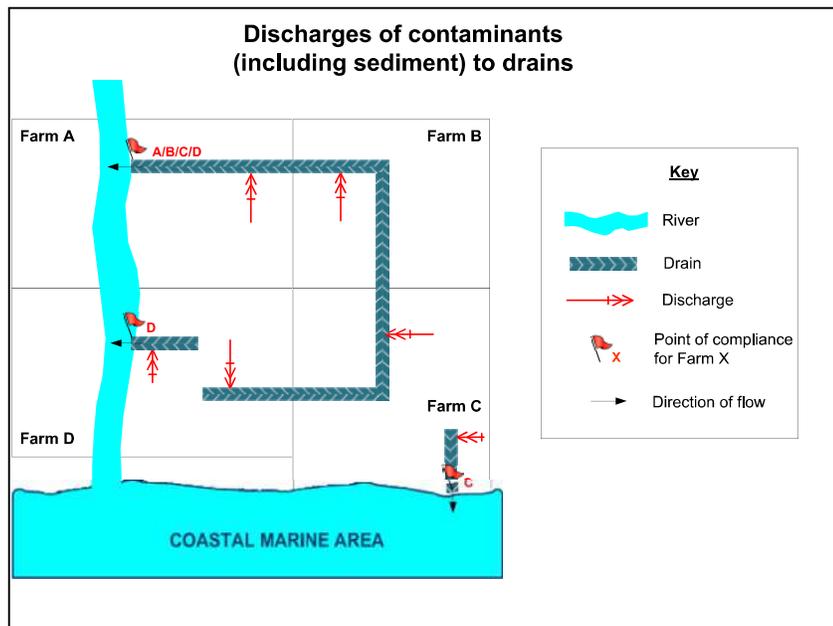
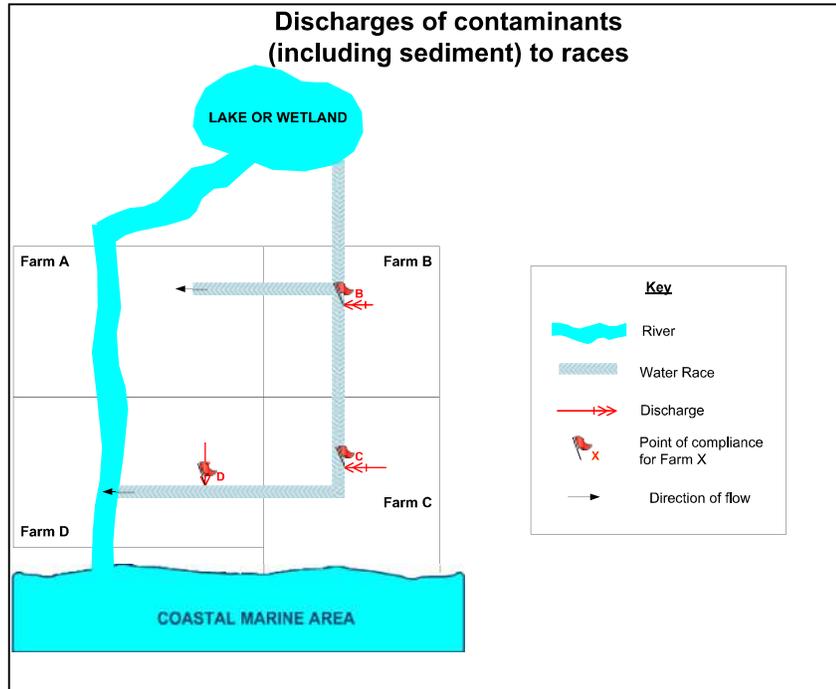


Figure 6: Implementation of Rule 12.C.1.1(e)(i)



**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

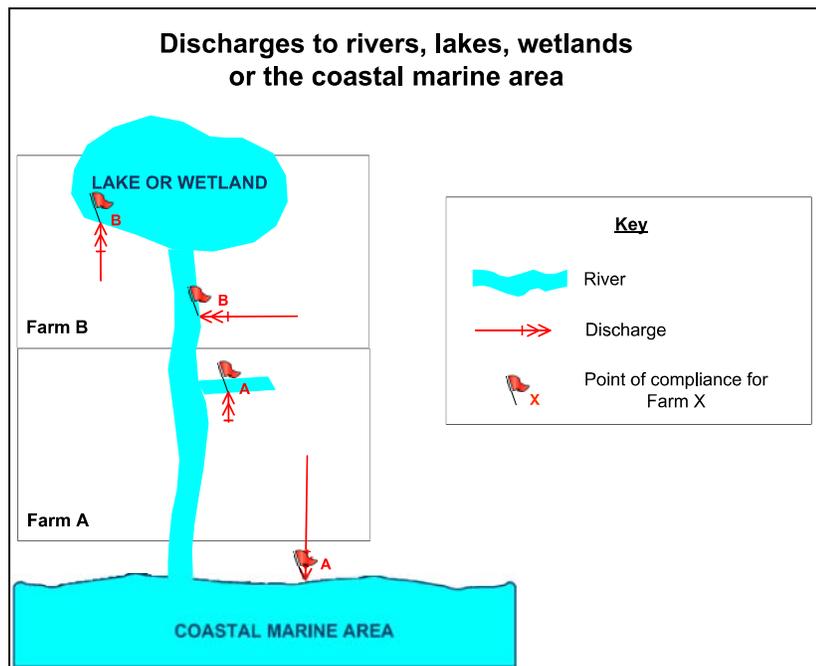
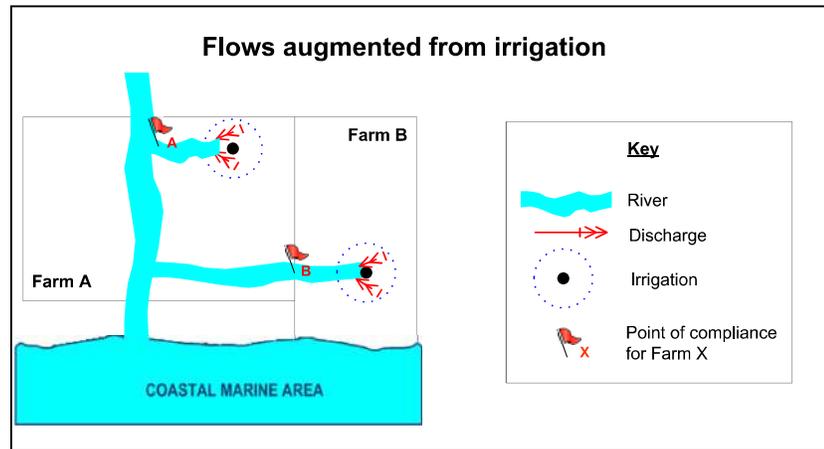


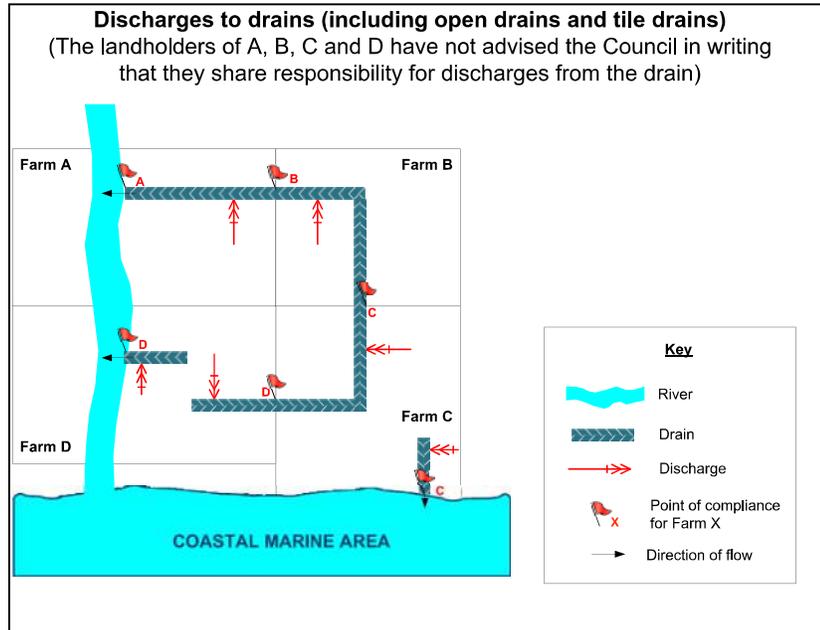
Figure 8: Implementation of Rule 12.C.1.1A(a)(i)



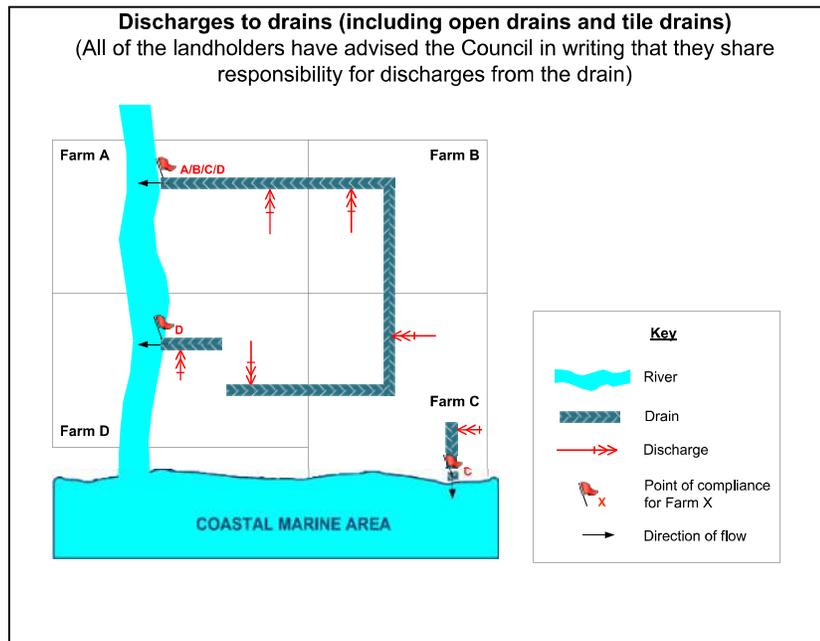
**Figure 9: Implementation of Rule 12.C.1.1A(a)(ii)**

- (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 exceedance<sup>6</sup> 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

<sup>6</sup> 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*).

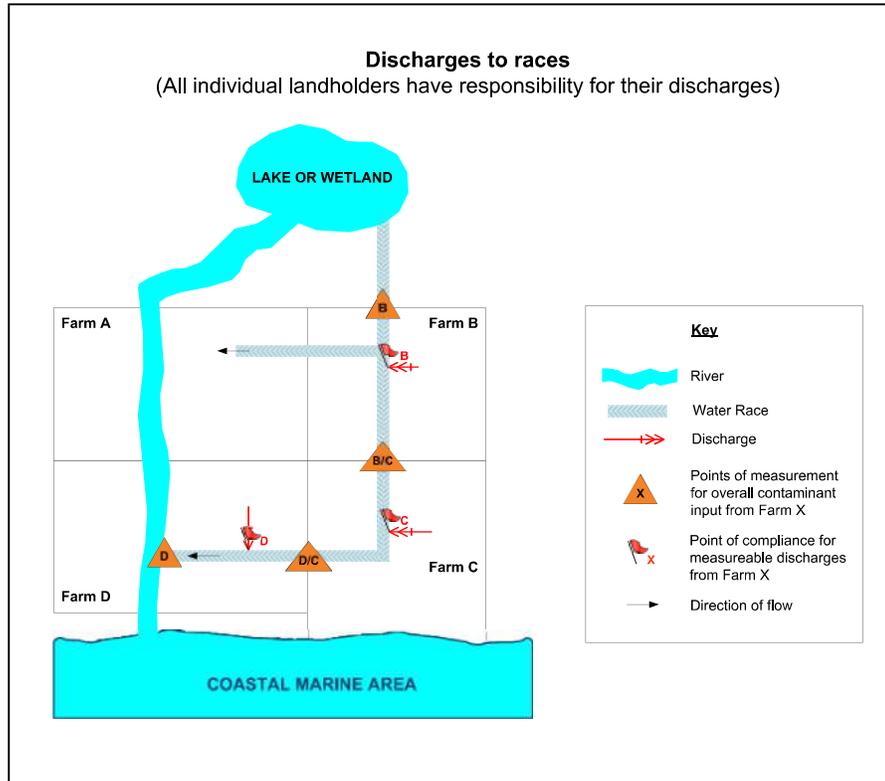
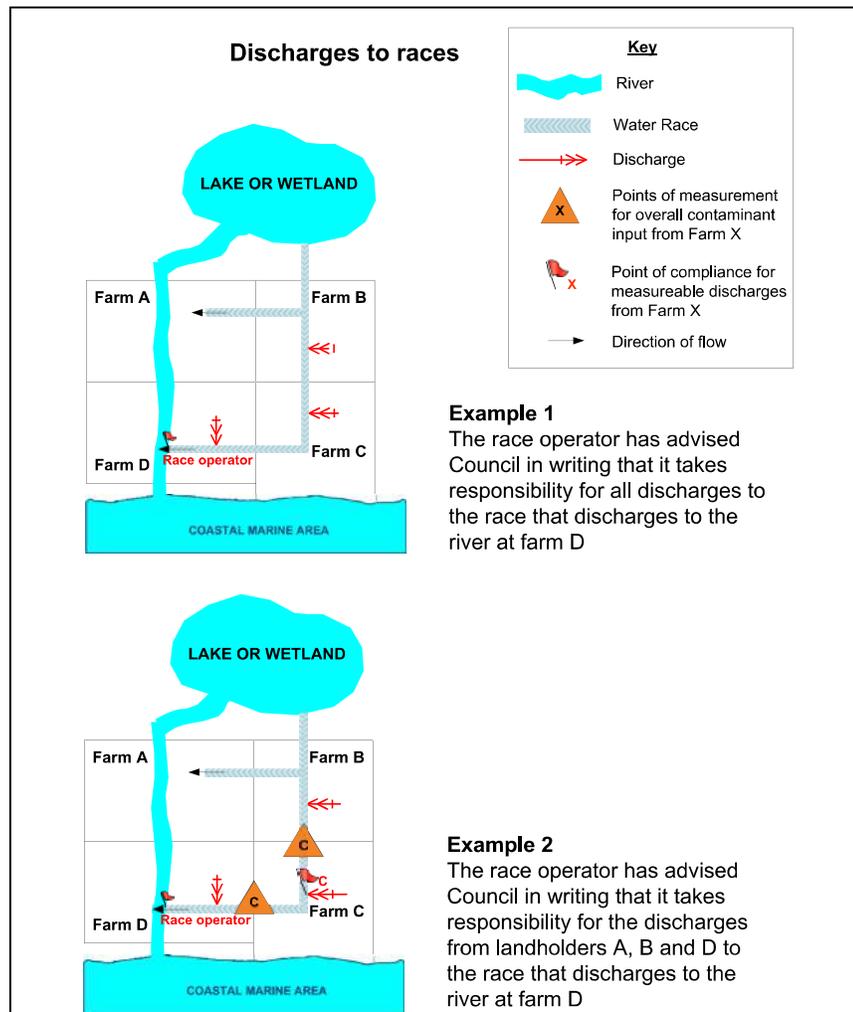


Figure 12: Implementation of Rule 12.C.1.1A(c)(i)



**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 nitrogen<sup>7</sup> 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<sup>®</sup> version 6 by a Certified Nutrient Management Advisor in accordance with OVERSEER<sup>®</sup> Best Practice Data Input Standards; and

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<sup>7</sup> 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<sup>®</sup> version 6; and
  - (2) Provide Council upon request with:
    - (a) All necessary data to run OVERSEER<sup>®</sup> version 6; or
    - (b) Any available OVERSEER<sup>®</sup> version 6 output and input parameter report prepared by a Certified Nutrient Management Advisor in accordance with OVERSEER<sup>®</sup> 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 nitrogen<sup>8</sup> 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.

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<sup>8</sup> 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

**Appendix 2 – Updated Draft Conditions of Consent**

CRIFFEL WATER LIMITED DRAFT CONDITIONS AS AT 21 OCTOBER 2019

Our Reference:

Consent No. RM16.093.01

**WATER PERMIT**

Pursuant to Section 104C of the Resource Management Act 1991, the Otago Regional Council grants consent to:

**Name:** Criffel Water Limited

**Address:** C/- Gallaway Cook Allan, 276 Princess Street, Dunedin

**Purpose:** To take and use water as primary and supplementary allocation from Luggate Creek for the purpose of irrigation, stock drinking water and domestic supply.

**Term:** Expiring 1 December 20292054

**Commented [KS1]:** The applicant seeks a term of not more than 35 years and not less than 25 years.

**Location of Point of Abstraction:** Luggate Creek, approximately 2 kilometres southeast of the intersection of Smith Road and Mount Barker Road, Luggate

**Legal Description of land at point of abstraction:** Section 3 SO 300466

**Legal Description of land(s) where water is to be used:** Various within the Criffel Water Limited Command Area, as shown on the plan attached as Appendix 1 to this consent.

**Map Reference at Point of Abstraction:** NZTM 2000 E1300149 N5038142

**Conditions**

**Specific**

1. This permit shall not commence until 2 October 2021.

4.2. If this consent is not given effect to within a period of two years from the date of commencement of this consent, this consent must lapse under Section 125 of the Resource Management Act 1991.

2.3. (a) The take and use of surface water as primary and supplementary allocation from Luggate Creek at NZTM 2000 E1300149 N5038142 on land legally described as Section 3 SO 300466 for irrigation and irrigation area on land within the Criffel

Water Limited Command Area must be carried out in accordance with the plans and all information submitted with the application dated 19 September 2019.

- (b) If there are any inconsistencies between the above information and the conditions of this consent, the conditions of this consent must prevail.
3. (a) The rate and quantity of abstraction for primary allocation must not exceed:
- (i) 358 litres per second;
  - (ii) ~~769,417~~ 864,124 cubic metres per month;
  - (iii) ~~3,879,273~~ 4,640,024 cubic metres between 1 July in a year and 30 June in the following year.
- (b) The rate of abstraction as first block supplementary allocation must not exceed:
- (i) 170 litres per second;
- (c) The rate of abstraction as second block supplementary allocation must not exceed:
- (i) 80 litres per second;
- (d) The total rate of abstraction (primary and supplementary) must not exceed:
- (i) ~~4,273,047~~ 1,357,724 cubic metres per month; and
  - (ii) ~~6,409,673~~ 7,301,624 cubic metres per year.
4. No abstraction, other than for stock drinking water purposes, and an individual's domestic supply, during the period 1 November to 30 April in the following year must occur when flows in the Luggate Creek are less than the minimum flow of 180 litres per second at the SH6 flow monitoring site (located at map reference NZTM200:1304656 5038199).
5. No abstraction, other than for stock drinking water purposes, and an individual's domestic supply, during the period 1 May to 30 October in the following year must occur when flows in the Luggate Creek are less than the minimum flow of 500 litres per second at the SH6 flow monitoring site (located at map reference NZTM200:1304656 5038199).
6. The first block supplementary take from Luggate Creek must only occur when the flow exceeds 788 litres per second at the SH6 flow monitoring site (located at map reference NZTM200:1304656 5038199) and will not cause the flow in Luggate Creek to fall below this level.
7. The second block supplementary take from Luggate Creek must only occur when the flow exceeds 1038 litres per second at the SH6 flow monitoring site (located at map reference NZTM200:1304656 5038199) and will not cause the flow in Luggate Creek to fall below this level.
8. A residual flow of no less than 90 litres per second must be maintained in Luggate Creek immediately downstream of the intake weir (NZTM 2000 E1300149 N5038142) for this permit.

Commented [KS2]: Table 6 M Hickey Evidence

~~9. A fish screen must be designed and installed that meets the following requirements:~~

- ~~(a) Water must only be taken when a fish screen with a mesh size of maximum slot width of 3mm is operated and maintained across the full width of the intake to ensure that fish and fish fry are prevented from passing through the intake screen; and~~
- ~~(b) As far as possible, the screen area must be designed to ensure the calculated average through screen velocity does not exceed 0.12 m/s if a self-cleaning mechanism is in place, or 0.06 m/s if no self-cleaning mechanism is in place.~~
- ~~(c) The sweep velocity parallel to the face of the screen must exceed the design approach velocity.~~

~~Prior to installation of any fish screen, a report containing final design plans and illustrating how the screen will meet the require design criteria and an operation and maintenance plan should be provided to the Consent Authority.~~

~~10. The fish screen required by Condition 9 must be maintained in good working order, to ensure that the screen is performing as designed. Records must be kept of all inspection and maintenance and these should be made available to the Consent Authority, on request.~~

~~This permit must be exercised or suspended in accordance with any Consent Authority approved rationing regime that applies to the Luggate Creek catchment.~~

~~44.9. The Consent Holder shall exercise the permit in accordance with any established water management group or water allocation committee approved by the Otago Regional Council.~~

~~12.10. Prior to the exercise of this permit, the consent holder must enter into a Low Flow agreement or rationing Rationing agreement Agreement approved by a water management group operating infor the Luggate Catchment with the holder of Consent Number RM18.345.01 and RM18.345.02. The objective purpose of the agreement is to manage abstractions within the catchment at all times of low flows to ensure that the Minimum Flows set for the Luggate Catchment isare always met. The agreement must include (but not be limited to) the following;~~

- ~~(a) A Communications protocol between the holder of this consent and the holder of Consent RM18.345.01 and RM18.345.02 Luggate Catchment water users for reducing takes to meet minimum flow requirements as catchment flows drop; NB: Priority will be given to providing communal domestic supply first in terms of meeting minimum flow requirements.~~
- ~~(b) Methodology to be followed by consent holders if the communications protocol cannot be followed;~~
- ~~(b) A specified flow level which trigger rationing action;~~
- ~~(c) An agreed rationing methodology (e.g. 1:1 flow sharing, pro-rata reductions, or stepped reductions) so as to ensure the Minimum Flows are not exceeded.~~
- ~~(c) Methodology for reviewing process in (a) and (b) above in the event that the minimum flow is breached to avoid the same issue arising again.~~
- ~~(d) A reporting process to the Manager Consents, Otago Regional Council to notify the Council when the rationing trigger flow set under (b) above has been met and covering regular reporting on rationing actions over periods of low flow below the set trigger level.~~

**Commented [KS3]:** Recommend deleting in accordance with Paragraph 40 Allibone Evidence.

**Commented [KS4]:** Deleted in accordance with ORC amended conditions 11/10/2019

**Commented [KS5]:** Updated in accordance with ORC amended conditions 11/10/2019

11. ~~The Low Flow Rationing Agreement is to be provided to the Manager Consents, Otago Regional Council for certification that it appropriately meets the objective set out in Condition 10, and that the low flow trigger level set in Condition 10 (b) above is set at an appropriate flow level.~~

Commented [KS6]: Updated in accordance with ORC amended conditions 11/10/2019

~~13-12.~~ This permit must be exercised in accordance with the Low Flow Rationing Agreement ~~or rationing agreement.~~

14-13. The consent holder must review, and if appropriate, update the agreement prepared in accordance with Condition ~~12~~10, at any intervals not exceeding 2 years from the date of commencement of this consent. If any amendments are made to the low flow agreement a copy of the updated agreement must be provided to the ORC following completion of the review.

### Performance Monitoring

- 15-14. (a) The Consent Holder must install a water meter to record the water take, at the point of take, with an error accuracy range of +/- 5% over the meters nominal flow range, and a telemetry compatible datalogger with at least 24 months data storage and a telemetry unit to record the rate and volume of take, and the date and time this water was taken.
- (b) The data logger must record the date, time and flow in litres per second.
- (c) Data must be provided once daily to the Consent Authority by means of telemetry. The Consent Holder must ensure data compatibility with the Consent Authority's time series database.
- (d) The water meter must be installed according to the manufacturer's specifications and instructions. There must be enough space in the pipe to allow for verification of the accuracy of the meter under condition (g).
- (e) The consent holder must ensure the full operation of the water meter, datalogger and telemetry unit at all times during the exercise of this consent. All malfunctions of the water meter and/or datalogger and/or telemetry unit during the exercise of this consent must be report to the Consent Authority within 5 working days of observation and appropriate repairs must be performed within 5 working days. Once the malfunction has been remedied, a Water Measuring Device Verification Form completed with photographic evidence must be submitted to the Consent Authority within 5 workings days of completion of repairs.
- (f) The installation of the water meter, datalogger and telemetry unit must be completed to full and accurate operation prior to the exercise of the consent. The Consent Holder must forward a copy of the installation certificate to the Consent Authority within one month of installing the water meter datalogger and telemetry unit.
- (g) (i) If a mechanical insert water meter is installed it must be verified for accuracy each and every year from the first exercise of this consent.
- (ii) Any electromagnetic or ultrasonic flow meter must be verified for accuracy every five years from the first exercise of this consent.
- (iii) Each verification must be undertaken by a Consent Authority approved operator and a Water Measuring Device Verification Form must be provided to the Consent Authority within 5 working days of the verification being performed, and at any time upon request.

~~46-15.~~ Within 3 years of the commencement of this consent, the Consent Holder must submit to the Consent Authority a Scheme Management Plan. The objective of the Scheme Management Plan is to ensure the efficiency of use and conveyance of water is improved over time and must include (but not be limited to) the following;

(a) A plan identifying the irrigation area at the commencement of this consent with the number of hectares specified.

(b) A plan identifying any expanded irrigation area since the commencement of this consent, with the number of hectares specified.

~~(c)~~ A plan identifying further expanded areas of irrigation still to be developed with the number of hectares specified.

~~(e)(d)~~ Confirmation of any residential development undertaken within the Command Area and corresponding change in use of water.

~~(d)(e)~~ A description of water use efficiency or conveyance upgrade that have taken place since the commencement of this consent including any;

(i) Upgrades to existing race network with may include piping;

(ii) Establishment of any water storage infrastructure;

~~(e)(f)~~ A description of water use efficiency of conveyance upgrades that are planned within the next 3 years and the timeframes proposed for their implementation.

16. The Consent Holder must review and update the plan prepared in accordance with Condition ~~46-15~~ at intervals not exceeding 2 years from the date of implementation of this plan. Any updated plans must be provided to the ORC following completion of the review.

17. The Scheme Management Plan is to be provided to the Manager Consents, Otago Regional Council for certification that it appropriately meets the objective set out in Condition 15, and the content required under Condition 15 (a) to (e).

18. On the ~~5<sup>th</sup>-10<sup>th</sup>~~ Anniversary of the commencement of this consent any expanded areas of irrigation identified within the Scheme Management Plan than have not been developed for irrigation will no longer be able to be developed and the water volume set aside for this future irrigation area must be surrendered by the consent holder, and provide written notice to the Consent Authority within 2 months of the 5<sup>th</sup> 10<sup>th</sup> Anniversary of the commencement of this consent.

~~19. A water use efficiency report must be provided to the Consent Authority in June each year. The report must assess the water use over the previous 12 months in respect of the efficient use of water for the purpose consented. This report must include, but not be limited to:~~

~~(a) Area, crop type, number of harvest per year, and timing.~~

~~(b) Annual summary of water usage (month by month, and related to crops in the ground)~~

~~(c) Reasons why use may have varied from the previous year~~

~~(d) Information demonstrating irrigation equipment that has been used and decision-making regarding efficiency of use (e.g. soil moisture data, irrigation scheduling, meter accuracy checks, computer control of irrigation) and any changes planned for the coming years.~~

~~(e) Water conservation steps taken.~~

**Commented [KS7]:** Updated in accordance with ORC amended conditions 11/10/2019

**Commented [KS8]:** Inserted in accordance with ORC amended conditions 11/10/2019

**Commented [KS9]:** Updated in accordance with ORC amended conditions 11/10/2019.

**Commented [KS10]:** Recommend delete as purpose of condition is unclear. If required suggest this be incorporated into Condition 15.

## General

~~20-19.~~ The consent holder must take all practicable steps to ensure that:

- (a) The volume of water used for irrigation does not exceed soil field capacity of the irrigated areas;
- (b) The irrigation does not cause surface run-off;
- (c) Leakage from pipes and structures is avoided;
- (d) The use of water onto non-targeted areas is avoided;
- (e) Irrigation induced soil erosion and soil pugging does not occur;
- (f) Soil quality is not degraded as a consequence of irrigation; and
- ~~(g) Loss of water, nutrients, and agrichemicals by percolation to groundwater is minimised.~~

**Commented [KS11]:** Deleted in accordance with ORC amended conditions 11/10/2019

## Review

~~21-20.~~ The Consent Authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this consent within 3 months of each anniversary of the commencement of this consent or within two months of any enforcement action taken by the Consent Authority in relation to the exercise of this consent for the purpose of:

- (a) Determining whether the conditions of this consent are adequate to deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage, or which becomes evident after the date of commencement of the consent;
- (b) Ensuring the conditions of this consent are consistent with any National Environmental Standards, relevant plans, and/or the Otago Regional Policy Statement;
- (c) Reviewing the frequency of monitoring or reporting required under this consent;
- (d) Varying the consented quantities and rates of take and monitoring, operating and reporting requirements, and performance requirements to respond to;
  - (i) The results of previous monitoring carried out under this consent and/or;
  - (ii) Water availability, including alternative water sources;
  - (iii) Actual and potential water use
  - (iv) Surface water flow and level regimes;
  - (v) Surface water quality
  - (vi) Efficiency of water use;
  - (vii) Instream biota, including fish passage and the functioning of aquatic ecosystems; or
  - (viii) New requirements for measuring, recording and transmission.

## Notes to Consent Holder

1. *Water may be taken at any time for reasonable stock water and domestic supply purposes.*
2. *The Consent Holder must be responsible for obtaining any relevant information on minimum flows in the Luggate Creek to ensure compliance with Conditions 4,5, 6, and 7.*
3. *If you require a replacement consent upon the expiry date of this consent, any new application should be lodged at least 6 months prior to the expiry date of this consent. Applying at least 6 months before the expiry date may enable you to continue to exercise this consent under Section 124 of the Resource Management Act 1991 until a decision is made on the replacement application (and any appeals are determined).*

*Primary allocation may be lost if an application is not made at least 6 months prior to the expiry and will be lost if an application is not made at least 3 months prior to expiry. A late application will likely result in the application being treated as supplementary allocation if any such allocation is available.*

- 4. The consent holder must not that Plan Change 6A of the Regional Plan Water, which is now operative, requires the control of farm contaminants in runoff and leaching of nutrients to groundwater. If such discharges are managed such that the thresholds in schedule 16A are no met by 1 April 2020 then consent will be required for the discharge of contaminants. Information about on farm nutrients must also be kept as of May 2014 for providing in puts to OVERSEER which models leaching of nutrients to groundwater. For other information about obligations under Plan Change 6A refer to the ORC website.*
- 4.5. The consent holder is responsible for obtaining all other necessary consents, permits, and licence, including those under the Building Act 2004, the Biosecurity Act 1993, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety in Employment Act 1992). The regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.*
- 5.6. WEX0162 was approved by the Consent Authority on 17 March 2015 to allow the water measuring device to be installed within a 20-metre radius of NZTM 2000 E1300123 N5038518.*

LUGGATE IRRIGATION DRAFT CONDITIONS AS AT 21 OCTOBER 2019

Our Reference:

Consent No. RM18.345.01

**WATER PERMIT**

Pursuant to Section 104C of the Resource Management Act 1991, the Otago Regional Council grants consent to:

**Name:** Luggate Irrigation Company Limited ~~and Lake McKay Station Limited~~  
**Address:** C/- Galloway Cook Allan, 276 Princess Street, Dunedin  
**Purpose:** To take and use water as primary and supplementary allocation from Luggate Creek ~~and Alice Burn~~ for the purpose of irrigation stock drinking water and domestic supply.

**Commented [KS12]:** Applicant seeks separate permits for Lake McKay Station & Luggate Irrigation

**Term:** Expiring 1 December ~~2029~~ 2054

**Commented [KS13]:** The applicant seeks a term of not more than 35 years and not less than 25 years.

**Location of Point of Abstraction:** Site 1: Approximately ~~6.91~~ 6.74 km west of the intersection of ~~Hopkins Street~~ Kingan Road and Luggate Cromwell Road (State Highway 6)

Site 2: Approximately ~~6.92~~ km west of the intersection of ~~Hopkins Street~~ Kingan Road and Luggate Cromwell Road (State Highway 6)

~~Site 3: Approximately 1.87 km west of the intersection of Hopkins Street and Luggate Cromwell Road (State Highway 6)~~

~~Site 4: Approximately 2.1 km west of the intersection of Hopkins Street and Luggate Cromwell Road (State Highway 6)~~

~~Site 5: Approximately 2 km west of the intersection of Hopkins Street and Luggate Cromwell Road (State Highway 6)~~

~~Site 6: Approximately 1.89 km west of the intersection of Hopkins Street and Luggate Cromwell Road (State Highway 6)~~

**Legal Description of land at point of abstraction:** ~~Lot 2 DP 342167, Lot 2 DP 342167, Part 6 SO 300466, Lot 1 DP 534249~~ Section

~~1 SO 300466, CL Beek XIV~~  
~~Cardrona SD~~

**Legal Description of land(s) where water is to be used:** Various within the Luggate Irrigation Company Limited ~~and Lake McKay Station Limited~~ Command Area, as shown on the plan attached as Appendix 1 to this consent.

**Map Reference at Point of Abstraction:** Site 1: NZTM 2000 ~~E1300149~~ E1302961  
~~N5038142~~ N5037944

Site 2: NZTM 2000 ~~E1300149~~ E1302755  
~~N5038142~~ N5037562

Site 3: NZTM 2000 ~~E1300149~~ N5038142

Site 4: NZTM 2000 ~~E1300149~~ N5038142

Site 5: NZTM 2000 ~~E1300149~~ N5038142

Site 6: NZTM 2000 ~~E1300149~~ N5038142

## Conditions

### Specific

1. ~~This permit shall not commence until 2 October 2021.~~
- 1.2. If this consent is not given effect to within a period of two years from the date of commencement of this consent, this consent must lapse under Section 125 of the Resource Management Act 1991.
- 2.3. The take and use of surface water as primary and supplementary allocation from Luggate Creek and Alice Burn must be carried out in accordance with the plans and all information submitted with the application dated 19 September 2019. If there are any inconsistencies between the above information and the conditions of this consent, the conditions of this consent must prevail.
3. (a) The rate and quantity of abstraction for primary allocation must not exceed:
  - (i) ~~480.87~~ litres per second;
  - (ii) ~~927,844,211,227~~-cubic metres per month;
  - (iii) ~~4,502,162,120,075~~ cubic metres between 1 July in a year and 30 June in the following year.
- (b) The rate of abstraction as first block supplementary allocation must not exceed:
  - (i) ~~80.27~~ litres per second;
- (c) The rate of abstraction as second block supplementary allocation must not exceed:
  - (i) ~~86.42~~ litres per second;
- (d) The total rate of abstraction (primary and supplementary) must not exceed:
  - (i) ~~4,761,024,444,160~~ cubic metres per month; and

**Commented [KS14]:** Table 7 M Hickey evidence plus communal domestic supply 8 L/sec continuous flow.

**Commented [KS15]:** Table 7 M Hickey evidence plus communal domestic supply 2000 L/day for 250 dwellings for 365 days.

(ii) ~~4,761,024~~ 2,353,255 cubic metres per year.

4. No abstraction, other than for stock drinking water purposes and an individual's domestic supply, during the period 1 November to 30 April in the following year must occur when flows in the Luggate Creek are less than the minimum flow of 180 litres per second at the SH6 flow monitoring site (located at map reference NZTM200:1304656 5038199).
5. No abstraction, other than for stock drinking water purposes and an individual's domestic supply, during the period 1 May to 30 October in the following year must occur when flows in the Luggate Creek are less than the minimum flow of 500 litres per second at the SH6 flow monitoring site (located at map reference NZTM200:1304656 5038199).
6. The first block supplementary take from Luggate Creek must only occur when the flow exceeds 788 litres per second at the SH6 flow monitoring site (located at map reference NZTM200:1304656 5038199) and will not cause the flow in Luggate Creek to fall below this level.
7. The second block supplementary take from Luggate Creek must only occur when the flow exceeds 1038 litres per second at the SH6 flow monitoring site (located at map reference NZTM200:1304656 5038199) and will not cause the flow in Luggate Creek to fall below this level.
- ~~8.~~ 8. A residual flow of no less than ~~40~~ 100 litres per second must be maintained in the ~~Alice Burn~~ North Branch Luggate Creek immediately downstream of the intake ~~weir~~ (NZTM 2000 ~~E1300149 E1302961 N5038142 N5037944~~) for this permit.
- ~~8-9.~~ 8-9. A visually connected residual flow must be maintained in the Alice Burn immediately downstream of the intake (NZTM 2000 E1302755 N5037562) to the confluence with the North Branch Luggate Creek.
- ~~9-10.~~ 9-10. A fish screen must be designed and installed that meets the following requirements:
  - (a) Water must only be taken when a fish screen with a mesh size of maximum slot width of 3mm is operated and maintained across the full width of the intake to ensure that fish and fish fry are prevented from passing through the intake screen; and
  - (b) As far as possible, the screen area must be designed to ensure the calculated average through screen velocity does not exceed 0.12 m/s if a self-cleaning mechanism is in place, or 0.06 m/s if no self-cleaning mechanism is in place.
  - (c) The sweep velocity parallel to the face of the screen must exceed the design approach velocity.

Prior to installation of any fish screen, a report containing final design plans and illustrating how the screen will meet the required design criteria and an operation and maintenance plan should be provided to the Consent Authority.

- ~~10-11.~~ 10-11. The fish screen required by Condition ~~9-10~~ 9-10 must be maintained in good working order, to ensure that the screen is performing as designed. Records must be kept of all inspection and maintenance and these should be made available to the Consent Authority, on request.

**Commented [KS16]:** The applicant has concerns with the lower velocity for non-self-cleaning screens and seeks greater clarification from ORC of the purpose of this condition.

~~This permit must be exercised or suspended in accordance with any Consent Authority approved rationing regime that applies to the Luggate Creek catchment.~~

**Commented [KS17]:** Deleted in accordance with ORC amended conditions 11/10/2019

12. ~~The Consent Holder shall exercise the permit in accordance with any established water management group or water allocation committee approved by the Otago Regional Council.~~

44.13. ~~Prior to the exercise of this permit, the consent holder must enter into a low-Low Flow agreement or Rrationing Agreement approved by a water management group operating infor the Luggate Catchment with the holder of Consent Number RM18.345.02 and RM16.093.01. The purpose-objective of the agreement is to manage abstractions within the catchment at all times of low flows to ensure that the Minimum Flows set for the Luggate Catchment are always is met. The agreement must include (but not be limited to) the following;~~

**Commented [KS18]:** Updated in accordance with ORC amended conditions 11/10/2019

~~(a) A Communications protocol between the holder of this consent and the holder of Consent RM18.345.02 and RM16.093. Luggate Catchment water users for reducing takes to meet minimum flow requirements as catchment flows drop; NB: Priority will be given to providing communal domestic supply first in terms of meeting minimum flow requirements.~~

~~(b) A specified flow level which trigger rationing action;~~

~~(a)(c) An agreed rationing methodology (e.g. 1:1 flow sharing, pro-rata reductions, or stepped reductions) so as to ensure the Minimum Flows are not exceeded.~~

~~(b) Methodology to be followed by consent holders if the communications protocol cannot be followed;~~

~~(c) Methodology for reviewing process in (a) and (b) above in the event that the minimum flow is breached to avoid the same issue arising again.~~

~~(d) A reporting process to the Manager Consents, Otago Regional Council to notify the Council when the rationing trigger flow set under (b) above has been met and covering regular reporting on rationing actions over periods of low flow below the set trigger level.~~

14. ~~The Low Flow Rationing Agreement is to be provided to the Manager Consents, Otago Regional Council for certification that it appropriately meets the objective set out in Condition 13, and that the low flow trigger level set in Condition 13 (b) above is set at an appropriate flow level.~~

**Commented [KS19]:** Inserted in accordance with ORC amended conditions 11/10/2019

42.15. ~~This permit must be exercised in accordance with the Low Flow agreement or Rrationing Agreement.~~

**Commented [KS20]:** Updated in accordance with ORC amended conditions 11/10/2019

43.16. The consent holder must review, and if appropriate, update the agreement prepared in accordance with Condition 12, at any intervals not exceeding 2 years from the date of commencement of this consent. If any amendments are made to the low flow agreement a copy of the updated agreement must be provided to the ORC following completion of the review.

## Performance Monitoring

44.17. (a) The Consent Holder must install a water meter to record the water take, at the point of take, with an error accuracy range of +/- 5% over the meters nominal flow range, and a telemetry compatible datalogger with at least 24 months data

storage and a telemetry unit to record the rate and volume of take, and the date and time this water was taken.

- (b) The data logger must record the date, time and flow in litres per second.
- (c) Data must be provided once daily to the Consent Authority by means of telemetry. The Consent Holder must ensure data compatibility with the Consent Authority's time series database.
- (d) The water meter must be installed according to the manufacturer's specifications and instructions. There must be enough space in the pipe to allow for verification of the accuracy of the meter under condition (g).
- (e) The consent holder must ensure the full operation of the water meter, datalogger and telemetry unit at all times during the exercise of this consent. All malfunctions of the water meter and/or datalogger and/or telemetry unit during the exercise of this consent must be report to the Consent Authority within 5 working days of observation and appropriate repairs must be performed within 5 working days. Once the malfunction has been remedied, a Water Measuring Device Verification Form completed with photographic evidence must be submitted to the Consent Authority within 5 workings days of completion of repairs.
- (f) The installation of the water meter, datalogger and telemetry unit must be completed to full and accurate operation prior to the exercise of the consent. The Consent Holder must forward a copy of the installation certificate to the Consent Authority within one month of installing the water meter datalogger and telemetry unit.
- (g)
  - (i) If a mechanical insert water meter is installed it must be verified for accuracy each and every year from the first exercise of this consent.
  - (ii) Any electromagnetic or ultrasonic flow meter must be verified for accuracy every five years from the first exercise of this consent.
  - (iii) Each verification must be undertaken by a Consent Authority approved operator and a Water Measuring Device Verification Form must be provided to the Consent Authority within 5 working days of the verification being performed, and at any time upon request.

15-18. Within 3 years of the commencement of this consent, the Consent Holder must submit to the Consent Authority a Scheme Management Plan. The objective of the Scheme Management Plan is to ensure the efficiency of use and conveyance of water is improved over time and must include (but not be limited to) the following;

- (a) A plan identifying the irrigation area at the commencement of this consent with the number of hectares specified.
- (b) A plan identifying any expanded irrigation area since the commencement of this consent, with the number of hectares specified.
- (c) A plan identifying further expanded areas of irrigation still to be developed with the number of hectares specified.
- (d) Confirmation of any residential development undertaken within the Command Area and corresponding change in use of water.
- ~~(e)~~(e) A description of water use efficiency or conveyance upgrade that have taken place since the commencement of this consent including any;
  - (iii) Upgrades to existing race network with may include piping;
  - (iv) Establishment of any water storage infrastructure;
- ~~(f)~~(f) A description of water use efficiency of conveyance upgrades that are planned within the next 3 years and the timeframes proposed for their implementation.

**Commented [KS21]:** Updated in accordance with ORC amended conditions 11/10/2019

~~19. The Scheme Management Plan is to be provided to the Manager Consents, Otago Regional Council for certification that it appropriately meets the objective set out in Condition 18, and the content required under Condition 18 (a) to (e).~~

**Commented [KS22]:** Inserted in accordance with ORC amended conditions 11/10/2019

~~46-20.~~ The Consent Holder must review and update the plan prepared in accordance with Condition ~~46-18~~ at intervals not exceeding 2 years from the date of implementation of this plan. Any updated plans must be provided to the ORC following completion of the review.

~~47-21.~~ On the ~~5<sup>th</sup>-10<sup>th</sup>~~ Anniversary of the commencement of this consent any expanded areas of irrigation identified within the Scheme Management Plan than have not been developed for irrigation will no longer be able to be developed and the water volume set aside for this future irrigation area must be surrendered by the consent holder and provide written notice to the Consent Authority within 2 months of the 5<sup>th</sup> 10<sup>th</sup> Anniversary of the commencement of this consent.

**Commented [KS23]:** Updated in accordance with ORC amended conditions 11/10/2019

~~18. A water use efficiency report must be provided to the Consent Authority in June each year. The report must assess the water use over the previous 12 months in respect of the efficient use of water for the purpose consented. This report must include, but not be limited to:~~

- ~~(a) Area, crop type, number of harvests per year, and timing.~~
- ~~(b) Annual summary of water usage (month by month, and related to crops in the ground)~~
- ~~(c) Reasons why use may have varied from the previous year~~
- ~~(d) Information demonstrating irrigation equipment that has been used and decision-making regarding efficiency of use (e.g. soil moisture data, irrigation scheduling, meter accuracy checks, computer control of irrigation) and any changes planned for the coming years.~~
- ~~(e) Water conservation steps taken.~~

**Commented [KS24]:** Recommend delete as purpose of condition is unclear. If required suggest this be incorporated into Condition 15.

## General

~~19-22.~~ The consent holder must take all practicable steps to ensure that:

- (a) The volume of water used for irrigation does not exceed soil field capacity of the irrigated areas;
- (b) The irrigation does not cause surface run-off;
- (c) Leakage from pipes and structures is avoided;
- (d) The use of water onto non-targeted areas is avoided;
- (e) Irrigation induced soil erosion and soil pugging does not occur;
- (f) Soil quality is not degraded as a consequence of irrigation; and
- ~~(g) Loss of water, nutrients, and agrichemicals by percolation to groundwater is minimised.~~

**Commented [KS25]:** Deleted in accordance with ORC amended conditions 11/10/2019

## Review

~~20-23.~~ The Consent Authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this consent within 3 months of each anniversary of the commencement of this consent or within two months of any enforcement action taken by the Consent Authority in relation to the exercise of this consent for the purpose of:

- (a) Determining whether the conditions of this consent are adequate to deal with any adverse effect on the environment which may arise from the exercise of the

- consent and which it is appropriate to deal with at a later stage, or which becomes evident after the date of commencement of the consent;
- (b) Ensuring the conditions of this consent are consistent with any National Environmental Standards, relevant plans, and/or the Otago Regional Policy Statement;
  - (c) Reviewing the frequency of monitoring or reporting required under this consent;
  - (d) Varying the consented quantities and rates of take and monitoring, operating and reporting requirements, and performance requirements to respond to;
    - (i) The results of previous monitoring carried out under this consent and/or;
    - (ii) Water availability, including alternative water sources;
    - (iii) Actual and potential water use
    - (iv) Surface water flow and level regimes;
    - (v) Surface water quality
    - (vi) Efficiency of water use;
    - (vii) Instream biota, including fish passage and the functioning of aquatic ecosystems; or
    - (viii) New requirements for measuring, recording and transmission.

#### **Notes to Consent Holder**

1. *Water may be taken at any time for reasonable stock water and domestic supply purposes.*
2. *The Consent Holder must be responsible for obtaining any relevant information on minimum flows in the Luggate Creek to ensure compliance with Conditions 4,5, 6, and 7.*
3. *If you require a replacement consent upon the expiry date of this consent, any new application should be lodged at least 6 months prior to the expiry date of this consent. Applying at least 6 months before the expiry date may enable you to continue to exercise this consent under Section 124 of the Resource Management Act 1991 until a decision is made on the replacement application (and any appeals are determined). Primary allocation may be lost if an application is not made at least 6 months prior to the expiry and will be lost if an application is not made at least 3 months prior to expiry. A late application will likely result in the application being treated as supplementary allocation if any such allocation is available.*
4. *The consent holder must not that Plan Change 6A of the Regional Plan Water, which is now operative, requires the control of farm contaminants in runoff and leaching of nutrients to groundwater. If such discharges are managed such that the thresholds in schedule 16A are no met by 1 April 2020 then consent will be required for the discharge of contaminants. Information about on farm nutrients must also be kept as of May 2014 for providing in puts to OVERSEER which models leaching of nutrients to groundwater. For other information about obligations under Plan Change 6A refer to the ORC website.*
5. *The consent holder is responsible for obtaining all other necessary consents, permits, and licence, including those under the Building Act 2004, the Biosecurity Act 1993, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007*

*and the Health and Safety in Employment Act 1992). The regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.*

PROPOSED LAKE MCKAY LIMITED DRAFT CONDITIONS AS AT 21 OCTOBER 2019

Our Reference:

Consent No.-RM18.345.0402

**WATER PERMIT**

Pursuant to Section 104C of the Resource Management Act 1991, the Otago Regional Council grants consent to:

**Name:** ~~Luggate Irrigation Company Limited and Lake McKay Station Limited~~ |

**Commented [KS26]:** Applicant seeks separate permits for Lake McKay Station & Luggate Irrigation

**Address:** C/- Gallaway Cook Allan, 276 Princess Street, Dunedin

**Purpose:** To take and use water as primary and supplementary allocation from Luggate Creek ~~and Alice Burn~~ for the purpose of irrigation- ~~stock drinking water and domestic supply.~~

**Term:** Expiring 1 December ~~2029~~ 2054

**Commented [KS27]:** The applicant seeks a term of not more than 35 years and not less than 25 years.

**Location of Point of Abstraction:** Site 1: Approximately ~~6.9-7.8~~ km west of the intersection of ~~Hopkins Street Kingan Road~~ and Luggate Cromwell Road (State Highway 6)

Site 2: Approximately ~~6.95.7~~ km west of the intersection of ~~Hopkins Street Kingan Road~~ and Luggate Cromwell Road (State Highway 6)

~~Site 3: Approximately 1.87 km west of the intersection of Hopkins Street and Luggate Cromwell Road (State Highway 6)~~

~~Site 4: Approximately 2.1 km west of the intersection of Hopkins Street and Luggate Cromwell Road (State Highway 6)~~

~~Site 5: Approximately 2 km west of the intersection of Hopkins Street and Luggate Cromwell Road (State Highway 6)~~

~~Site 6: Approximately 1.89 km west of the intersection of Hopkins Street and Luggate Cromwell Road (State Highway 6)~~

**Legal Description of land at point of abstraction:** ~~Lot 2 DP 342167, Lot 2 DP 342167, Part 6 SO 300466, Section 1 SO 300466, CL Bock XIV Cardrona SD Lot 3 DP515146~~

**Legal Description of land(s) where water is to be used:** Various within the ~~Luggate Irrigation Company Limited and~~ Lake McKay Station Limited Command Area, as shown on the plan attached as Appendix 1 to this consent.

**Map Reference at Point of Abstraction:** Site 1: NZTM 2000 ~~E1300149~~ E1300464  
N5038142 N5032792  
Site 2: NZTM 2000 E130 18610449  
N5038142 N5033204  
Site 3: NZTM 2000 ~~E1300149~~ N5038142  
Site 4: NZTM 2000 ~~E1300149~~ N5038142  
Site 5: NZTM 2000 ~~E1300149~~ N5038142  
Site 6: NZTM 2000 ~~E1300149~~ N5038142

**Conditions**

**Specific**

1. This permit shall not commence until 2 October 2021.
- 4.2. If this consent is not given effect to within a period of two years from the date of commencement of this consent, this consent must lapse under Section 125 of the Resource Management Act 1991.
- 2.3. The take and use of surface water as primary and supplementary allocation from Luggate Creek and Alice Burn must be carried out in accordance with the plans and all information submitted with the application dated 19 September 2019. If there are any inconsistencies between the above information and the conditions of this consent, the conditions of this consent must prevail.
34. (a) The rate and quantity of abstraction for primary allocation must not exceed:
  - (i) ~~180~~ 93 litres per second;
  - (ii) ~~927,844~~ 249,091 cubic metres per month;
  - (iii) ~~4,502,162~~ cubic 1,389,990 metres between 1 July in a year and 30 June in the following year.
- (b) The rate of abstraction as first block supplementary allocation must not exceed:
  - (i) ~~80~~ 53 litres per second;
- (c) The rate of abstraction as second block supplementary allocation must not exceed:
  - (i) ~~86~~ 44 litres per second;
- (d) The total rate of abstraction (primary and supplementary) must not exceed:
  - (i) ~~4,761,024~~ 465,090 cubic metres per month; and
  - (ii) ~~4,761,024~~ 2,352,490 cubic metres per year.

**Commented [KS28]:** Based on continuous flow of 93L/sec.

5. No abstraction, other than for stock drinking water purposes, and an individual's domestic supply during the period 1 November to 30 April in the following year must occur when flows in the Luggate Creek are less than the minimum flow of 180 litres per second at the SH6 flow monitoring site (located at map reference NZTM200:1304656 5038199).
6. No abstraction, other than for stock drinking water purposes, and an individual's domestic supply during the period 1 May to 30 October in the following year must occur when flows in the Luggate Creek are less than the minimum flow of 500 litres per second at the SH6 flow monitoring site (located at map reference NZTM200:1304656 5038199).
7. The first block supplementary take from Luggate Creek must only occur when the flow exceeds 788 litres per second at the SH6 flow monitoring site (located at map reference NZTM200:1304656 5038199) and will not cause the flow in Luggate Creek to fall below this level.
8. The second block supplementary take from Luggate Creek must only occur when the flow exceeds 1038 litres per second at the SH6 flow monitoring site (located at map reference NZTM200:1304656 5038199) and will not cause the flow in Luggate Creek to fall below this level.
9. A residual flow of no less than 46 litres per second must be maintained in the Alice Burn immediately downstream of the intake weir (NZTM 2000 E1300149 N5038142) for this permit.

~~10. A fish screen must be designed and installed that meets the following requirements:~~

- ~~(a) Water must only be taken when a fish screen with a mesh size of maximum slot width of 3mm is operated and maintained across the full width of the intake to ensure that fish and fish fry are prevented from passing through the intake screen; and~~
- ~~(b) As far as possible, the screen area must be designed to ensure the calculated average through screen velocity does not exceed 0.12 m/s if a self-cleaning mechanism is in place, or 0.06 m/s if no self-cleaning mechanism is in place.~~
- ~~(c) The sweep velocity parallel to the face of the screen must exceed the design approach velocity.~~

~~Prior to installation of any fish screen, a report containing final design plans and illustrating how the screen will meet the require design criteria and an operation and maintenance plan should be provided to the Consent Authority.~~

~~11. The fish screen required by Condition 9 must be maintained in good working order, to ensure that the screen is performing as designed. Records must be kept of all inspection and maintenance and these should be made available to the Consent Authority, on request.~~

~~This permit must be exercised or suspended in accordance with any Consent Authority approved rationing regime that applies to the Luggate Creek catchment.~~

**Commented [KS29]:** Recommend deleting in accordance with Paragraph 40 Allibone Evidence.

**Commented [KS30]:** Deleted in accordance with ORC amended conditions 11/10/2019

10. The Consent Holder shall exercise the permit in accordance with any established water management group or water allocation committee approved by the Otago Regional Council.

~~12.~~

~~13.11.~~ Prior to the exercise of this permit, the consent holder must enter into a Low Flow agreement or Rationing Agreement approved by a water management group operating in for the Luggate Catchment with the holder of Consent Number RM18.345.01 and RM16.093.01. The purpose objective of the agreement is to manage abstractions within the catchment at all times of low flows to ensure that the Minimum Flows set for the Luggate Catchment are always is met. The agreement must include (but not be limited to) the following;

- (a) A Communications protocol between the holder of this consent and the holder of Consent RM18.345.01 and RM16.093.01 Luggate Catchment water users for reducing takes to meet minimum flow requirements as catchment flows drop; NB: Priority will be given to providing communal domestic supply first in terms of meeting minimum flow requirements.
- ~~(b) Methodology to be followed by consent holders if the communications protocol cannot be followed;~~
- ~~(c) Methodology for reviewing process in (a) and (b) above in the event that the minimum flow is breached to avoid the same issue arising again.~~
- (b) A specified flow level which trigger rationing action;
- (c) An agreed rationing methodology (e.g. 1:1 flow sharing, pro-rata reductions, or stepped reductions) so as to ensure the Minimum Flows are not exceeded.
- (d) A reporting process to the Manager Consents, Otago Regional Council to notify the Council when the rationing trigger flow set under (b) above has been met and covering regular reporting on rationing actions over periods of low flow below the set trigger level.

**Commented [KS31]:** Updated in accordance with ORC amended conditions 11/10/2019

12. The Low Flow Rationing Agreement is to be provided to the Manager Consents, Otago Regional Council for certification that it appropriately meets the objective set out in Condition 11, and that the low flow trigger level set in Condition 11 (b) above is set at an appropriate level.

**Commented [KS32]:** Inserted in accordance with ORC amended conditions 11/10/2019

~~14.13.~~ This permit must be exercised in accordance with the low flow agreement or rationing agreement.

~~15.14.~~ The consent holder must review, and if appropriate, update the agreement prepared in accordance with Condition 12, at any intervals not exceeding 2 years from the date of commencement of this consent. If any amendments are made to the low flow agreement a copy of the updated agreement must be provided to the ORC following completion of the review.

### Performance Monitoring

~~16.15.~~ (a) The Consent Holder must install a water meter to record the water take, at the point of take, with an error accuracy range of +/- 5% over the meters nominal flow range, and a telemetry compatible datalogger with at least 24 months data storage and a telemetry unit to record the rate and volume of take, and the date and time this water was taken.

- (b) The data logger must record the date, time and flow in litres per second.
- (c) Data must be provided once daily to the Consent Authority by means of telemetry. The Consent Holder must ensure data compatibility with the Consent Authority's time series database.
- (d) The water meter must be installed according to the manufacturer's specifications and instructions. There must be enough space in the pipe to allow for verification of the accuracy of the meter under condition (g).
- (e) The consent holder must ensure the full operation of the water meter, datalogger and telemetry unit at all times during the exercise of this consent. All malfunctions of the water meter and/or datalogger and/or telemetry unit during the exercise of this consent must be reported to the Consent Authority within 5 working days of observation and appropriate repairs must be performed within 5 working days. Once the malfunction has been remedied, a Water Measuring Device Verification Form completed with photographic evidence must be submitted to the Consent Authority within 5 working days of completion of repairs.
- (f) The installation of the water meter, datalogger and telemetry unit must be completed to full and accurate operation prior to the exercise of the consent. The Consent Holder must forward a copy of the installation certificate to the Consent Authority within one month of installing the water meter datalogger and telemetry unit.
- (g)
  - (i) If a mechanical insert water meter is installed it must be verified for accuracy each and every year from the first exercise of this consent.
  - (ii) Any electromagnetic or ultrasonic flow meter must be verified for accuracy every five years from the first exercise of this consent.
  - (iii) Each verification must be undertaken by a Consent Authority approved operator and a Water Measuring Device Verification Form must be provided to the Consent Authority within 5 working days of the verification being performed, and at any time upon request.

47.16. Within 3 years of the commencement of this consent, the Consent Holder must submit to the Consent Authority a Scheme Management Plan. The objective of the Scheme Management Plan is to ensure the efficiency of use and conveyance of water is improved over time and must include (but not be limited to) the following;

- (a) A plan identifying the irrigation area at the commencement of this consent with the number of hectares specified.
- (b) A plan identifying any expanded irrigation area since the commencement of this consent, with the number of hectares specified.
- (c) A plan identifying further expanded areas of irrigation still to be developed with the number of hectares specified.
- (d) Confirmation of any residential development undertaken within the Command Area and corresponding change in use of water.
- ~~(e)~~(e) A description of water use efficiency or conveyance upgrade that have taken place since the commencement of this consent including any;
  - (i) Upgrades to existing race network with may include piping;
  - (ii) Establishment of any water storage infrastructure;
- ~~(e)~~(f) A description of water use efficiency of conveyance upgrades that are planned within the next 3 years and the timeframes proposed for their implementation.

17. The Scheme Management Plan is to be provided to the Manager Consents, Otago Regional Council for certification that it appropriately meets the objective set out in Condition 16, and the consent required under Condition 16 (a) to (e).

**Commented [KS33]:** Updated in accordance with ORC amended conditions 11/10/2019

**Commented [KS34]:** Inserted in accordance with ORC amended conditions 11/10/2019

18. The Consent Holder must review and update the plan prepared in accordance with Condition 16 at intervals not exceeding 2 years from the date of implementation of this plan. Any updated plans must be provided to the ORC following completion of the review.

19. On the ~~5<sup>th</sup>-10<sup>th</sup>~~ Anniversary of the commencement of this consent any expanded areas of irrigation identified within the Scheme Management Plan than have not been developed for irrigation will no longer be able to be developed and the water volume set aside for this future irrigation area must be surrendered by the consent holder and provide written notice to the Consent Authority within 2 months of the 5<sup>th</sup> 10<sup>th</sup> Anniversary of the commencement of this consent.

**Commented [KS35]:** Updated in accordance with ORC amended conditions 11/10/2019

~~20. A water use efficiency report must be provided to the Consent Authority in June each year. The report must assess the water use over the previous 12 months in respect of the efficient use of water for the purpose consented. This report must include, but not be limited to:~~

- ~~(a) Area, crop type, number of harvests per year, and timing;~~
- ~~(b) Annual summary of water usage (month by month, and related to crops in the ground)~~
- ~~(c) Reasons why use may have varied from the previous year~~
- ~~(d) Information demonstrating irrigation equipment that has been used and decision-making regarding efficiency of use (e.g. soil moisture data, irrigation scheduling, meter accuracy checks, computer control of irrigation) and any changes planned for the coming years.~~
- ~~(e) Water conservation steps taken.~~

**Commented [KS36]:** Recommend delete as purpose of condition is unclear. If required suggest this be incorporated into Condition 16.

### General

~~21-20.~~ The consent holder must take all practicable steps to ensure that:

- (a) The volume of water used for irrigation does not exceed soil field capacity of the irrigated areas;
- (b) The irrigation does not cause surface run-off;
- (c) Leakage from pipes and structures is avoided;
- (d) The use of water onto non-targeted areas is avoided;
- (e) Irrigation induced soil erosion and soil pugging does not occur;
- (f) Soil quality is not degraded as a consequence of irrigation; and
- ~~(g) Loss of water, nutrients, and agrichemicals by percolation to groundwater is minimised.~~

**Commented [KS37]:** Deleted in accordance with ORC amended conditions 11/10/2019

### Review

~~22-21.~~ The Consent Authority may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice on the consent holder of its intention to review the conditions of this consent within 3 months of each anniversary of the commencement of this consent or within two months of any enforcement action taken by the Consent Authority in relation to the exercise of this consent for the purpose of:

- (a) Determining whether the conditions of this consent are adequate to deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage, or which becomes evident after the date of commencement of the consent;

- (b) Ensuring the conditions of this consent are consistent with any National Environmental Standards, relevant plans, and/or the Otago Regional Policy Statement;
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  - (i) The results of previous monitoring carried out under this consent and/or;
  - (ii) Water availability, including alternative water sources;
  - (iii) Actual and potential water use
  - (iv) Surface water flow and level regimes;
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#### **Notes to Consent Holder**

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2. *The Consent Holder must be responsible for obtaining any relevant information on minimum flows in the Luggate Creek to ensure compliance with Conditions 4,5, 6, and 7.*
3. *If you require a replacement consent upon the expiry date of this consent, any new application should be lodged at least 6 months prior to the expiry date of this consent. Applying at least 6 months before the expiry date may enable you to continue to exercise this consent under Section 124 of the Resource Management Act 1991 until a decision is made on the replacement application (and any appeals are determined). Primary allocation may be lost if an application is not made at least 6 months prior to the expiry and will be lost if an application is not made at least 3 months prior to expiry. A late application will likely result in the application being treated as supplementary allocation if any such allocation is available.*
4. *The consent holder must not that Plan Change 6A of the Regional Plan Water, which is now operative, requires the control of farm contaminants in runoff and leaching of nutrients to groundwater. If such discharges are managed such that the thresholds in schedule 16A are no met by 1 April 2020 then consent will be required for the discharge of contaminants. Information about on farm nutrients must also be kept as of May 2014 for providing in puts to OVERSEER which models leaching of nutrients to groundwater. For other information about obligations under Plan Change 6A refer to the ORC website.*
5. *The consent holder is responsible for obtaining all other necessary consents, permits, and licence, including those under the Building Act 2004, the Biosecurity Act 1993, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety in Employment Act 1992). The regulations, relevant Bylaws,*

*and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.*