

**SUBMISSION ON PROPOSED PLAN CHANGES 28 AND 29, AND VARIATIONS 1 AND 2
TO PLAN CHANGE 26 TO THE MACKENZIE DISTRICT PLAN**

Clause 6 First Schedule, Resource Management Act 1991

TO: Planning Manager
Mackenzie District Council
PO Box 52
Proposed Plan Changes 28 and 29 and Variations 1 and 2 to Plan Change 26
to the Mackenzie District Plan
Main Street
FAIRLIE 7949

By email: districtplan@mackenzie.govt.nz

Name of submitter:

1 Opuha Water Limited (**OWL**)

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Trade competition statement:

2 OWL could not gain an advantage in trade competition through this submission.

Proposal this submission relates to is:

3 This submission is on the following proposed plan changes and variations to plan changes to the Mackenzie District Plan, which form part of Stage 4 of the Mackenzie District Council's (**Council's**) review of the Operative Mackenzie District Plan (**District Plan**):

- (a) Plan Change 28 – Hazards and Risks, Historic Heritage and Notable Trees (**PC28**);
- (b) Variation 1 to Plan Change 26 – Infrastructure and Renewable Electricity Generation (**Variation 1 to PC26**);
- (c) Plan Change 29 – Open Space and Recreation Zones, Noise, Signs and Temporary Activities (**PC29**); and
- (d) Variation 2 to Plan Change 26 – Infrastructure and Renewable Electricity Generation (**Variation 2 to PC26**);

(collectively, the **Plan Changes and Variations**).

The specific provisions of the Plan Changes and Variations that this submission relates to:

- 4 This submission relates to PC28, PC29 and Variations 1 and 2 to PC26 in their entirety, but specifically to the proposed provisions of those Plan Changes and Variations set out in **Annexure A** attached to this submission.

Submission

Introduction

- 5 OWL owns and operates the Opuha Dam and Lake Opuha.
- 6 The Opuha Dam is situated at the confluence of the North and South Opuha Rivers 17 kilometres north-east of Fairlie. It is a 50 metre high earth dam, with a single 7MW hydro turbine and a lake covering up to 710 ha and storing over 74 million cubic metres of water. Flows released from the Opuha Dam are attenuated by the Downstream Weir (**DSW**) approximately 1.8km downstream of the Opuha Dam. The rate of flow released from the DSW gate is to ensure regional consent conditions regarding minimum flows and water use requirements are met.
- 7 The Scheme operates by releasing water into the Opuha River which flows into the Opihi River, for sustaining in-river flows and supplying reliable water to its irrigator shareholders and the urban and industrial users of Timaru via the Timaru District Council's community water take. The water supplied by the Scheme presently facilitates the irrigation of approximately 16,000 hectares of land within the Mackenzie and Timaru Districts, and the power generated by the hydro station supplies, on average, over 3000 households per year.
- 8 The Opuha Dam also plays an important role in natural hazard mitigation through flood buffering.
- 9 The strategic importance of the Opuha Dam and OWL's hydro-electric and irrigation and community supply schemes are recognised in the following regional planning documents:
 - (a) The Canterbury Regional Policy Statement (**CRPS**) – the hydro-electric scheme is “regionally significant infrastructure” for the purpose of this document.
 - (b) The Canterbury Land and Water Regional Plan (**CLWRP**) – the national benefits of the Opuha hydro-electric and irrigation and community supply schemes is recognised within Policy 4.51 and Rule 5.125C of this document, and OWL's status as a “principal water supplier” and the Opuha Dam's role in natural hazard (flood) mitigation is also recognised and provided for through the CLWRP's policy and rule framework, including in the amendments made by Plan Change 7.
- 10 The Opuha Dam and related infrastructure and assets owned and operated by OWL as part of the Opuha Scheme are located within the General Rural Zone (**GRUZ**) under the District Plan as amended by Plan Change 25. These facilities and infrastructure fall

within the proposed definition of “critical infrastructure” under PC28 and are subject to the provisions and/or changes to existing provisions relating to:

- (a) Hazards and Risks, Historic Heritage and Notable Trees proposed under PC28;
- (b) Noise, Signs and Temporary Activities proposed under PC29; and
- (c) Infrastructure and Renewable Electricity Generation proposed under Variations 1 and 2 to PC26.

- 11 Given the strategic importance of the infrastructure and assets owned by OWL in the Mackenzie District, OWL has an interest in the Plan Changes and Variations.

OWL’s overall position

- 12 OWL is generally supportive of the proposals contained within the Plan Changes and Variations, particularly the recognition of the Opuha Dam, the Opuha Hydroelectric Power Station and associated infrastructure, and the importance of those facilities to the Mackenzie District, through the proposed new or changes to existing plan provisions, including definitions and rules.
- 13 However, OWL has identified:
- (a) Potential alignment issues between some objectives and policies and their implementing rules;
 - (b) Potential omissions in the objective, policy and rules frameworks proposed as part of the Plan Changes and Variations; and
 - (c) Minor errors and inconsistencies.
- 14 OWL’s specific concerns in relation to those matters, together with a summary of the decisions it seeks from Council, are set out in **Annexure A** attached to this submission.

Decisions sought by OWL

- 15 OWL seeks the following decisions from Council:
- (a) That the decisions sought in **Annexure A** to this submission be accepted; and/or
 - (b) Amendments to the provisions of PC28 and PC29 to address the substance of the concerns raised in this submission; and
 - (c) All consequential amendments required to address the concerns raised in this submission and ensure a coherent planning document.

Wish to be heard:

- 16 OWL wishes to be heard in support of this submission.

- 17 OWL would be prepared to consider presenting a joint case with others making similar submissions at the hearing.



Opuha Water Limited

By its Solicitors and authorised Agents

Gresson Dorman & Co: Georgina Hamilton

Date: 22 January 2025

ANNEXURE A – REASONS FOR SUBMISSION AND DECISIONS SOUGHT BY OPUHA WATER LIMITED

Specific provision of the Plan Changes and Variations to Plan Changes to the Mackenzie District Plan (MDP) to which the submission relates			Submission		Decision Sought
Section	Chapter	Provision	Support/Oppose	Reasons	(Note: amendments sought by Opuha Water Limited (OWL) are shown in tracked changes with additions and deletions shown in bold underline and strikethrough respectively).
Plan Change 28: Hazards and Risks, Historic Heritage and Notable Trees					
Interpretation	Definitions	New Definition of “critical infrastructure (in relation to Natural Hazards Chapter only)”	Support	<p>The Opuha Dam and the related infrastructure and assets owned and operated by OWL fall within the proposed new definition of “critical infrastructure”, specifically clauses (c), (h) and (i) of that definition.</p> <p>OWL considers this is appropriate and necessary to ensure the MDP recognises the strategic importance of that infrastructure and assets as identified in the Canterbury Regional Policy Statement and Canterbury Land and Water Regional Plan.</p>	Retain as notified.
Interpretation	Definitions	New Definitions	Support	<p>The following definitions are considered appropriate in the context of the plan provisions proposed under Plan Change 28:</p> <ul style="list-style-type: none"> • Archaeological Site • Heritage Fabric • High Flood Hazard Area • Liquefaction • Major Hazard Facility • Natural Hazard Mitigation Works • Natural Hazard Sensitive Building • Non-Critical Infrastructure 	Retain as notified.

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Section	Chapter	Provision	Support/Oppose	Reasons	(Note: amendments sought by Opuha Water Limited (OWL) are shown in tracked changes with additions and deletions shown in bold underline and strikethrough respectively).
				<ul style="list-style-type: none"> • Occupied Building • Qualified Arborist • Residual Risk • Root Protection Zone • Strategic Transport Network • Surface Fault Rupture 	
Hazards and Risks	Hazardous Substances	Introduction, Objectives (HAZS-O1 – HAZS-O2), Policies (HAZS-P1 – HAZS-P3), Rules (HAZS-R1 – HAZS-R4 and Matters of Discretion).	Support.	<p>OWL considers the use and/or storage of hazardous substances in and around the Opuha Dam and related infrastructure and assets will either be a permitted activity under HAZS-R1, or will be able to continue in reliance of existing use rights under section 10 of the RMA. HAZS-R1 would therefore only become relevant if the character, intensity, and scale of those existing activities were to change.</p> <p>OWL supports the proposed planning framework for the management of use and storage of hazardous substances on that basis.</p>	Retain as notified.
Hazards and Risks	Natural Hazards	Flood Hazard Assessment and Liquefaction Overlay in Planning Maps	Support	The proposed Flood Hazard Assessment and Liquefaction Overlays included in the planning maps do not extend across the Opuha Dam or the associated hydro electric power station. OWL therefore understands it is MDC's intention that	Retain as notified.

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				<p>the rules in the Natural Hazards Chapter will not apply to any activities undertaken within this area (i.e., outside the Overlay boundaries).</p> <p>OWL supports those proposed Overlays on that basis and as natural hazard mitigation works undertaken at the Opuha Dam or in relation to infrastructure and assets owned and operated by OWL that are located outside of the Overlays, would be treated as upgrades to existing infrastructure and/or renewable electricity generation facilities and would be a permitted activity under the rules of the Infrastructure and Renewable Energy Generation chapters governing upgrade (subject to compliance with applicable permitted activity conditions).</p> <p>OWL also considers it is appropriate that the Flood Hazard Assessment Overlay extends across land adjoining Lake Opuha. This would ensure appropriate assessments of flood risk (including from Lake Opuha) are undertaken for proposals to establish new or extensions to existing natural hazard sensitive buildings as defined under PC28.</p>	

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Hazards and Risks	Natural Hazards	Introduction, Objectives (NH-O1 – NH-O4) and Policies (NH-P1 – P10)	Support	OWL considers the proposed introduction, objectives and policies provide appropriate direction for the management of natural hazard risks and mitigation works within the Mackenzie District.	Retain as notified.
Hazards and Risks	Natural Hazards	NH-R1 – New Natural Hazard Sensitive Buildings NH-R2 – Extensions to Existing Natural Hazard Sensitive Buildings	Support	OWL considers the proposed rule framework and consenting requirements for new or extensions to existing natural hazard sensitive buildings as defined under PC28 is appropriate. In OWL's view, Rules NH-R1 and R2 will ensure that appropriate assessments of flood risk are undertaken for such proposals.	Retain as notified.
Hazards and Risks	Natural Hazards	NH-R3 New non-critical infrastructure, or the operation, maintenance, repair, replacement, upgrading of non-critical infrastructure and the operation, maintenance, repair, replacement, upgrading of	Oppose in part	OWL considers the proposed rule framework and permitted activity conditions for the operation, maintenance, repair, replacement and upgrading of critical infrastructure, such as the Opuha Dam and other infrastructure/assets owned and operated by OWL, within the Flood Hazard Assessment Overlay is appropriate. In OWL's view, the proposals recognise the strategic importance of that infrastructure and assets to the Mackenzie District and as identified in the Canterbury Regional Policy Statement and	Retain NH-R3 as notified subject to the following minor drafting changes: NH-R3 New non-critical infrastructure, or the operation, maintenance, repair, replacement, <u>or</u> upgrading of non-critical infrastructure and the operation, maintenance, repair, replacement, <u>or</u> upgrading of critical infrastructure ...

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Section	Chapter	Provision	Support/Oppose	Reasons	(Note: amendments sought by Opuha Water Limited (OWL) are shown in tracked changes with additions and deletions shown in bold underline and strikethrough respectively).
		critical infrastructure		Canterbury Land and Water Regional Plan. OWL considers that two minor drafting changes are required in the title of Rule NH-R3 as set out in the decisions sought.	
Hazards and Risks	Natural Hazards	NH-R4 New critical infrastructure	Support	OWL considers the proposed rule framework applying to new critical infrastructure within the Flood Hazard Assessment Overlay is appropriate. In OWL's view, the proposals recognise the strategic importance of critical infrastructure to the Mackenzie District.	Retain NH-R4 as notified.
Hazards and Risks	Natural Hazards	NH-R5 Natural Hazard Mitigation Works	Oppose in part	OWL considers NH-R5.2 and NH-R5.3 should be amended to cover natural hazard mitigation works undertaken by operators of critical infrastructure. In OWL's view, this is necessary to recognise the significance of critical infrastructure within the Mackenzie District and the need for its protection from natural hazards.	Amend NH-R5 as follows: NH-R5 Natural Hazard Mitigation Works All Zones Activity Status: PER Where: The works are: 1. The maintenance or operation of any existing natural hazard mitigation works, or 2. The upgrading of any natural hazard mitigation works administered by a Regional

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Section	Chapter	Provision	Support/Oppose	Reasons	(Note: amendments sought by Opuha Water Limited (OWL) are shown in tracked changes with additions and deletions shown in bold underline and strikethrough respectively).
					<p>Council or a Territorial Authority, <u>or an operator of critical infrastructure.</u></p> <p>Note: The earthworks provisions in Earthworks Chapter shall not apply to any activity permitted under NH-R5.1.</p> <p>All Zones</p> <p>Activity Status: RDIS</p> <p>Where:</p> <p>The works are:</p> <p>3. The establishment of any new natural hazard mitigation works administered by a Regional Council or Territorial Authority, <u>or an operator of critical infrastructure.</u></p> <p>Matters of discretion are restricted to:</p> <p>a. NH-MD2.</p>
Hazards and Risks	Natural Hazards	Standards (NH-S1) and Matters of Discretion (NH-MD1 and NH-MD2) and SCHED-NH1.	Support	OWL considers NH-S1, NH-MD1 and NH-MD2 and SCHED-NH1 are appropriate.	Retain as notified.

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Section	Chapter	Provision	Support/Oppose	Reasons	(Note: amendments sought by Opuha Water Limited (OWL) are shown in tracked changes with additions and deletions shown in bold underline and strikethrough respectively).
Variation 1 to Plan Change 26: Infrastructure and Renewable Electricity Generation					
Energy, Infrastructure and Transport	Infrastructure	Table 1	Support	OWL considers the changes proposed to Table 1 under Variation 1 to PC26 are necessary to ensure a consistent approach across all chapters of the MDP.	Retain as notified.
Energy, Infrastructure and Transport	Renewable Electricity Generation	Table 1	Support	OWL considers the changes proposed to Table 1 under Variation 1 to PC26 are necessary to ensure a consistent approach across all chapters of the MDP.	Retain as notified.
Plan Change 29: Open Space and Recreation Zones, Noise, Signs and Temporary Activities					
Interpretation	Definitions	New Definitions	Support	<p>The following definitions are considered appropriate in the context of the plan provisions proposed under Plan Change 28:</p> <ul style="list-style-type: none"> • Agricultural and Horticultural Noise • Commercial Recreation Activity • Community Market • Emergency Response Purposes • Filming • Freestanding Sign • L_{Aeq} • $L_{AF(max)}$ • L_{dn} • L_{peak} 	Retain as notified.

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Section	Chapter	Provision	Support/Oppose	Reasons	(Note: amendments sought by Opuha Water Limited (OWL) are shown in tracked changes with additions and deletions shown in bold underline and strikethrough respectively).
				<ul style="list-style-type: none"> Noise Noise Sensitive Activities Normal Domestic Activities Official Sign Off-Site Sign Sign Temporary Emergency Services Training Activities Temporary Event Temporary Military Training Activity Temporary Residential Accommodation 	
General District-Wide Matters	Noise	Introduction, Objective (NOISE-O1); and Policies (NOISE-P2 and P2)	Oppose in part	<p>OWL considers that the proposed introduction, objective and policies provide appropriate direction in relation to noise effect and reverse sensitivity.</p> <p>However, OWL considers that 'critical infrastructure' should be included in the list contained within NOISE-P2, as it considers it is similarly appropriate and important to manage reverse sensitivity effects associated with the Opuha Dam and related infrastructure and assets. In OWL's view, including critical infrastructure within NOISE-P2 would recognise the importance of such infrastructure within the Mackenzie District and provide</p>	<p>Retain the Introduction to the Noise Chapter, NOISE-O1 and NOISE-P1 as notified.</p> <p>Amend NOISE-P2 as follows:</p> <p>NOISE-P2 Reverse Sensitivity Manage noise sensitive activities in proximity to State Highways, Airports, <u>critical infrastructure</u>, and within the Town Centre Zone, to protect them from reverse sensitivity effects.</p>

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Section	Chapter	Provision	Support/Oppose	Reasons	
				appropriate protection against reverse sensitivity effects.	
General District-Wide Matters	Noise	NOISE-R1 to R5; R7 – R12, R14 to R16 and R18	Support	OWL considers these proposed rules are appropriate and necessary for the management of noise effects of activities within the Mackenzie District.	Retain as notified.
General District-Wide Matters	Noise	NOISE-R6	Oppose in part	<p>OWL supports the intent of NOISE-R6 to permit construction noise where it is compliant with the noise limits set out in Tables 2 and 3 of NZS 6803:1999 Acoustics – Construction Noise. However, OWL considers it would be appropriate for an additional permitted activity condition be added to this rule to allow construction noise associated with natural hazard mitigation works.</p> <p>Due to the nature of this work (i.e., often in short or emergency time frames to prevent natural hazards from occurring), OWL considers it would be appropriate for the MDP to enable natural hazard mitigation works to occur without the need for resource consent.</p>	<p>Amend NOISE-R6 as follows:</p> <p>NOISE-R6 Construction Noise All Zones</p> <p>Activity Status: PER Where:</p> <ol style="list-style-type: none"> Noise from any construction activity complies with the relevant noise limits set out in Tables 2 and 3 of NZS 6803:1999 Acoustics - Construction Noise, when measured and assessed in accordance with that standard; <u>or</u> <u>Noise from any natural hazard mitigation works.</u>

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General District-Wide Matters	Noise	NOISE-R13	Oppose in part	<p>OWL has identified minor drafting errors in permitted activity conditions 1(a) and (b) of NOISE-R13, relating to the time period when the stated noise limit applies. OWL considers it is appropriate that these errors be addressed to refer to the intended time period.</p> <p>To ensure consistency with GRUZ-R15(1)(h), OWL considers it would be appropriate for NOISE-R13 to be expanded to permit noise generated by motorised craft being used for either infrastructure inspections or resource consent compliance monitoring.</p>	<ul style="list-style-type: none"> Amend permitted activity conditions 1 (a) and (b) of NOISE-R13 by including reference to the intended time period during which the stated noise limits apply. Include a new permitted activity condition in NOISE-R13 as follows: <p><u>2. The noise is generated by the use of motorised craft for infrastructure inspections or natural and physical resource monitoring required by statutory or regulatory instruments.</u></p>
General District-Wide Matters	Noise	NOISE-R17	Oppose in part	<p>OWL considers it is necessary for minimum noise standards to be met by the following activities to manage reverse sensitivity effects arising from the operation of critical infrastructure:</p> <ul style="list-style-type: none"> new buildings containing noise sensitive activities; alterations to existing buildings that created a new habitable room; or the use of the existing building for a new noise sensitive activity. 	<p>Amend NOISE-R17 as follows:</p> <p>NOISE-R17</p> <p>Any New Building Containing a Noise Sensitive Activity, or the Alteration of an Existing Building which Creates a New Habitable Room or the Use of an Existing Building for a New Noise Sensitive Activity, within 500m of any Special Purpose Airport Zone <u>or critical infrastructure</u>.</p> <p>...</p>

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				<p>OWL considers this could be achieved by extending the application of NOISE-R17 to the above activities within 500m of critical infrastructure.</p> <p>OWL considers this amendment is necessary to recognise the importance of, and to protect, such infrastructure within the Mackenzie District.</p>	
General District-Wide Matters	Noise	NOISE-TABLE 1 - Noise Limits NOISE-TABLE 2 – Indoor Design Noise Levels	Support	<p>OWL considers the noise limits proposed in Table 1 and noise levels in Table 2 are appropriate.</p> <p>In particular, OWL is of the view that the noise measurement location for the purpose of assessing compliance with the limits in Table 1 should be <i>“any point within the notional boundary [...]”</i> (rather than the site boundary) as proposed.</p>	Retain as notified.
General District-Wide Matters	Noise	NOISE-MD1 Noise Effects	Support	<p>OWL considers the range of matters of discretion as proposed are appropriate to ensure noise effects (including in relation to reverse sensitivity) are appropriately addressed in any future resource consenting processes.</p>	Retain as notified.

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Section	Chapter	Provision	Support/Oppose	Reasons	(Note: amendments sought by Opuha Water Limited (OWL) are shown in tracked changes with additions and deletions shown in bold underline and strikethrough respectively).
General District-Wide Matters	Signs	Introduction, Objectives (SIGN-O1), Policies (SIGN-P1 – SIGN-P3), Rules (SIGN-R1 – SIGN-R5), Standards (SIGN-S1 – SIGN-S6) and Matters of Discretion (SIGN-MD1 and SIGN-MD2).	Support	OWL considers the proposed planning framework for signs is appropriate.	Retain as notified.
General District-Wide Matters	Temporary Activities	Introduction, Objective (TEMP-O1), Policy (TEMP-P1), Rules (TEMP-R1 to R6), Standards (TEMP-S1 and S2) and Matters of Discretion (TEMP-MD1)	Support	OWL considers the proposed planning framework for signs is appropriate.	Retain as notified.
Variation 2 to Plan Change 26: Infrastructure and Renewable Electricity Generation					
Energy, Infrastructure and Transport	Infrastructure	Table 1	Support	OWL considers the changes proposed to Table 1 under Variation 2 to PC26 are necessary to ensure a	Retain as notified.

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Section	Chapter	Provision	Support/Oppose	Reasons	(Note: amendments sought by Opuha Water Limited (OWL) are shown in tracked changes with additions and deletions shown in bold underline and strikethrough respectively).
				consistent approach across all chapters of the MDP.	
Energy, Infrastructure and Transport	Renewable Electricity Generation	Table 1	Support	OWL considers the changes proposed to Table 1 under Variation 2 to PC26 are necessary to ensure a consistent approach across all chapters of the MDP.	Retain as notified.