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Date: 1/15/2023 3:46:27 PM

Subject: PC22 Mackenzie District Plan - Further submissions by Opuha Water Limited

Attachments: Further Submission by Opuha Water Limited on Proposed Plan Change 22 (Light).pdf

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Kia Ora

Please find attached for filing and by way of service further submissions by Opuha Water Limited in relation to primary submissions by I Dierickx (Submission ID 5), R Williams (Submission ID 10) and M Dierickx (Submission ID 14) on Proposed Plan Change 22 to the Mackenzie District Plan.

Ng mihi nui

Georgina Hamilton
Partner



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My core office days are Monday, Tuesday, Thursday and Friday, 9am to 3pm.

FURTHER SUBMISSION ON PROPOSED PLAN CHANGE 22 TO THE MACKENZIE DISTRICT PLAN

Clause 8 First Schedule, Resource Management Act 1991

TO: Planning Manager
Mackenzie District Council
PO Box 52
Proposed Plan Change 22 (Light) to Mackenzie District Plan
Main Street
FAIRLIE 7949

By email: districtplan@mackenzie.govt.nz

Name of further submitter:

- 1 Opuha Water Limited (**OWL**)

Address: c/- Gresson Dorman & Co
P O Box 244
TIMARU 7940

Contact: Georgina Hamilton

Email: georgina@gressons.co.nz

Submission that this further submission relates to is:

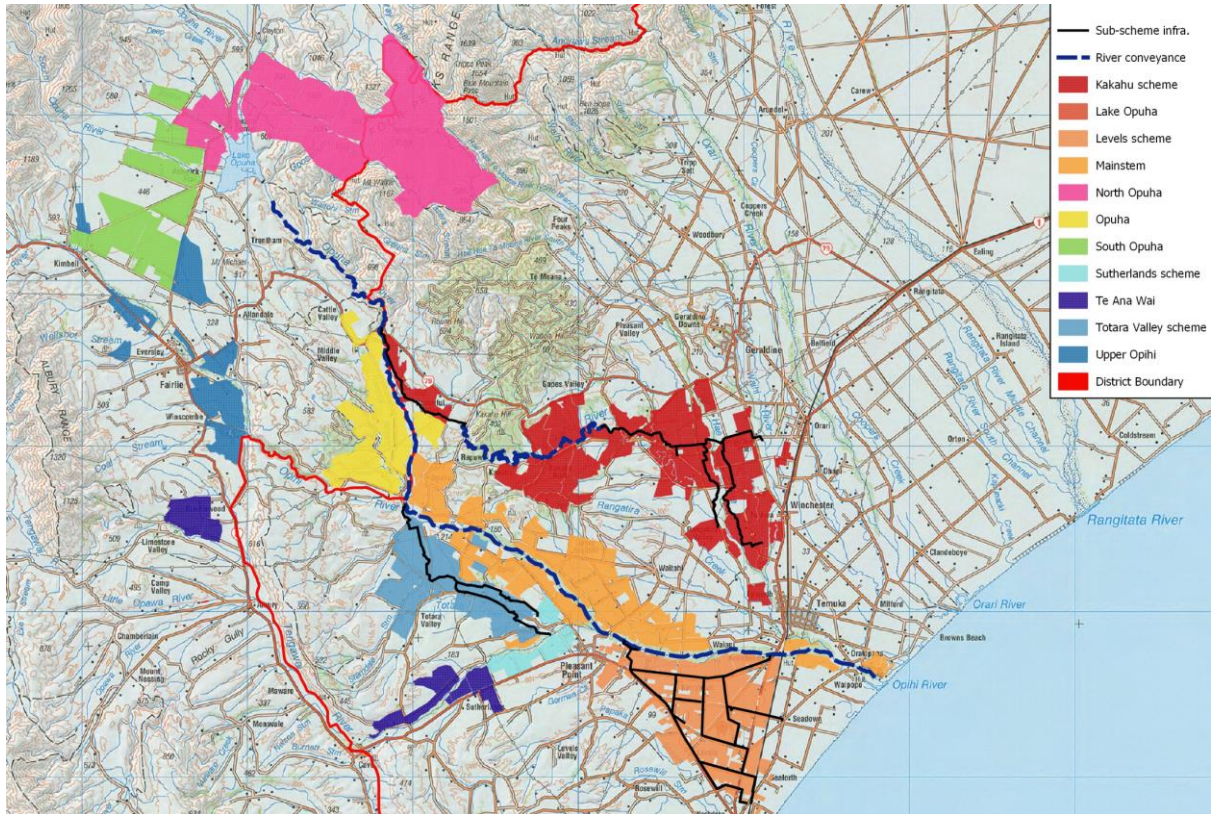
- 2 This is a further submission in opposition to the primary submissions set out in **Annexure A** on proposed Plan Change 22 (Light) to the Mackenzie District Plan (**PC22**), which forms part of Stage 2 of the Mackenzie District Council's (**Council's**) review of the Operative Mackenzie District Plan (**District Plan**).

Status of further submitter:

- 3 OWL is a person who has an interest in PC22 that is greater than the interest the general public has as it owns and operates the Opuha Dam and related infrastructure supporting hydro electricity generation, irrigation and community supply schemes in the eastern part of the Mackenzie District, which utilise lighting. As outlined in OWL's primary submission on PC22, the strategic importance of these schemes is recognised in the Canterbury Regional Policy Statement and the Canterbury Land and Water Regional Plan.
- 4 Approximately 3700ha of land is irrigated with water from the Opuha Scheme in the Mackenzie District in the catchments of the Opuha River and the non-augmented tributaries of the North and South Opuha, Upper Ōpihi (above Raincliff) Rivers, and the upper section of the Te Ana Wai River. While not directly augmented by water released

from the Opuha Dam, the takes from the non-augmented tributaries are affiliated to the Scheme because OWL is required to offset them through releases down the mainstem of the Ōpihi River.

5 The location of these irrigation areas are shown in the following Scheme map:



6 The primary submissions on PC22 that are the subject of OWL's further submissions in Annexure A seek new rules and related changes to PC22 that would regulate lighting on pivot irrigators. As the majority of OWL shareholders who irrigate in the North and South Opuha, Upper Ōpihi (above Raincliff), Opuha, and upper Te Ana Wai catchments utilise pivot irrigators, OWL has a particular interest in those primary submissions, which it considers is greater than the interests of the general public.

Parts of the primary submissions supported or opposed by OWL:

7 The parts of the primary submissions on PC22 that OWL opposes are set out in **Annexure A** to this further submission, together with the reasons for the further submission and decisions sought by OWL.

Wish to be Heard:

- 8 OWL wishes to be heard in support of this submission.
- 9 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: 16 January 2023

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

Submission Number	Submitter	Decision Requested by Submitter (Amendments <u>underlined</u> and deletions struck out)	Support/ Oppose	Reasons	Decision sought by Opuha Water Limited
5.	Ingemar Dierickx	Broaden the scope of protection of the night sky by including light pollution caused by strobe lights on pivot irrigators by: • Amending the language of LIGHT-O1 • Introduce a new section LIGHT-04 that specifically bans strobe lights on pivot irrigators	Oppose	<p>OWL questions the legal vires of the changes requested by the submitters to PC22, which would have the effect of regulating light from pivot irrigators that have been previously held by the Environment Court to not fall within the Operative Mackenzie District Plan’s definition of “building” for the purpose of the policies and rules of that Plan because they are “vehicles” under exception (e) in that definition.¹</p>	Disallow the submission points.
10.	Rex Williams	Amend Plan Change 22 to prohibit high intensity light sources in the Rural Zone.		<p>OWL also notes the difficulty that would arise from accepting the changes requested by the submitters to PC22 from an enforcement perspective, as existing lighting on irrigators could continue to operate in reliance of existing use rights provided the requirements of section 10 of the Resource Management Act 1991 are satisfied. In this regard, OWL does not expect irrigation areas within its Scheme to be expanded in the future due to the restrictions imposed on nutrient management and other aspects of farming systems through the evolving national policy direction and regional planning rules for freshwater management.</p>	
14.	Marion Dierickx	Broaden the scope of protection of the night sky by prohibiting light pollution caused by lighting on agricultural equipment, specifically strobe lights on pivot irrigators by: • Amending the language of LIGHT-O1; and • Amend LIGHT-R1 to include a ban on strobe lights on agricultural equipment		<p>OWL is also concerned about the health and safety, and potential environmental, implications of banning lights on pivot irrigators.</p> <p>These lights indicate that the pivot is functioning and moving as it is designed to do. Without these lights it would be very hard to determine at night whether the pivot is moving. Physically checking these pivots during darkness hours would then become a potentially significant health and safety risk.</p> <p>Furthermore, without the light to indicate the pivot is working appropriately, there could be blockages, leaks, overwatering etc that go undetected for a longer period of time and therefore cause potential environmental risk.</p>	

¹ *Haldon Station and Ors v Mackenzie District Council* [2014] NZEnvC 136.