

**SUBMISSION ON PROPOSED PLAN CHANGES 23, 24, 26 AND 27 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 23, 24, 26 and 27 to Mackenzie District Plan
Main Street
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By email: districtplan@mackenzie.govt.nz

Name of submitter:

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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 to the Mackenzie District Plan, which form part of Stage 3 of the Mackenzie District Council's (**Council's**) review of the Operative Mackenzie District Plan (**District Plan**):

- (a) Plan Change 23 – General Rural Zone, Natural Features and Landscapes and Natural Character (**PC23**);
- (b) Plan Change 24 – Sites and Areas of Significance to Māori (**PC24**);
- (c) Plan Change 26 – Renewable Electricity Generation and Infrastructure (**PC26**); and
- (d) Plan Change 27 – Transport, Public Access, Subdivision and Earthworks (**PC27**).

The specific provisions of PC23, PC24, PC26 and PC27 that this submission relates to:

4 This submission relates to PC23, PC24, PC26 and PC27 in its entirety, but specifically to the proposed provisions of those plan changes 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 facilities 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 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:
 - 8.1 The Canterbury Regional Policy Statement (**CRPS**) – the hydro-electric scheme is "regionally significant infrastructure" for the purpose of this document.
 - 8.2 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" is also recognised and provided for through the CLWRP's policy and rule framework, including in the amendments made by Plan Change 7.
- 9 The Opuha Dam, and related infrastructure and assets are located within the boundaries of the Operative District Plan's current Opuha Dam Special Purpose Zone (**ODZ**), and were established in accordance with the associated planning framework set out in Section 9: Special Purpose Zones of the District Plan, and the Opuha Dam Concept Plan contained within it. Other irrigation and community supply infrastructure owned and operated by OWL is located outside of the ODZ, but within, or affect land within, the Rural Zone under the Operative District Plan.
- 10 Given the strategic importance of the infrastructure and assets owned by OWL in the Mackenzie District, OWL has an interest in PC23, PC24, PC26 and PC27.

OWL's overall position

- 11 OWL is generally supportive of the proposed provisions in PC23, PC24, PC26 and PC27, particularly the recognition of the Opuha Dam, Opuha HEPS and associated infrastructure through plan provisions, including rules, and the importance of those facilities to the Mackenzie District.

12 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 of the chapters in some of the plan changes; and
- (c) Various errors and inconsistencies.

13 OWL's specific concerns with the provisions of PC23, PC24, PC26 and PC27, 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

14 OWL seeks the following decisions from Council:

- 14.1 that the decisions sought in **Annexure A** to this submission be accepted; and/or
- 14.2 amendments to the provisions of PC23, PC24, PC26 and PC27 to address the substance of the concerns raised in this submission; and
- 14.3 all consequential amendments required to address the concerns raised in this submission and ensure a coherent planning document.

Wish to be heard:

15 OWL wishes to be heard in support of this submission.

16 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: 26 January 2024

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

Specific provision of the Mackenzie District Plan Plan Changes to which submission relates		Submission		Decision Sought (Note: amendments sought by Opuha Water Limited (OWL) are shown in tracked changes with additions and deletions shown in bold underline and strikethrough respectively)
Chapter	Section/ Provision	Support/Oppose/New	Reasons	
Plan Change 23: General Rural Zone, Natural Features and Landscapes, and Natural Character				
Planning Maps	Mapping	Oppose	<p>The planning maps extend the General Rural Zone over the area comprising Lake Opuha. It is unclear what purpose this proposed zoning serves as the underlying land is inundated with water. In OWL's view, the zoning of this area creates confusion for some activities, e.g., land use activities affecting the bed of the Lake, which are within the jurisdiction of regional councils, not the Mackenzie District Council (MDC) under the Resource Management Act 1991 (RMA). It is also noted that the Introduction section of the GRUZ chapter does not allude to waterbodies being incorporated within the GRUZ or how that relates to the "purpose" of the GRUZ.</p>	Delete GRUZ zoning across Lake Opuha.
Planning Maps	Mapping	Oppose	<p>The planning maps show the area of land beneath Lake Opuha within the NZLRI LUC Classes 1-3 (Land Resource Inventory) overlay³³. It is unclear what purpose this overlay would serve, as this area is already inundated by water.</p>	Delete the NZLRI LUC Classes 1-3 (Land Resource Inventory) overlay affecting the area beneath Lake Opuha from the planning maps.
Definitions	New Definitions	Support	<p>The following definitions are considered appropriate in the context of the plan provisions within Plan Change 23:</p> <ul style="list-style-type: none"> • Building • Building coverage • Building footprint • Earthworks • Effect • Functional need • Irrigation • Quarrying activities • Structure • Wetland 	<p>Retain the following proposed definitions as notified:</p> <ul style="list-style-type: none"> • Building • Building coverage • Building footprint • Earthworks • Effect • Functional need • Irrigation • Quarrying activities • Structure • Wetland
General comment on Chapters	Intro	Oppose in part	<p>It is noted that the explanation of how rules for activities in the General Rural Zone interrelate with rules in other chapters is located within the "Notes to Plan Users" under the Rules section. This is inconsistent with similar explanations in other Chapters, such as the Infrastructure Chapter, which is located in the Introduction to the Chapter. OWL considers that it would be beneficial for a</p>	Ensure the location of the explanation of how rules for the General Rural Zone interrelate with rules in other chapters is consistent across chapters by either:

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			consistent approach to be taken across all chapters of the district plan in terms of where this explanation is located.	<ul style="list-style-type: none"> (a) Moving the explanation to the Introduction of the "General Rural Zone" section/chapter to ensure consistency with other chapters of the district plan; or (b) Retain the explanation under the "Notes to Plan Users" in the Rules section and the location of similar explanations within other sections/chapters of the district plan are relocated to that location
General Rural Zone	GRUZ-P3	Oppose in part	<p>OWL considers that the direction contained in proposed GRUZ-P3 Reverse Sensitivity is appropriate and necessary for the protection of lawfully established existing renewable electricity generation activities. However, OWL considers the policy should also refer to infrastructure activities more generally, or in the alternative "regionally significant infrastructure".</p> <p>OWL notes in this regard that a definition of the term "regionally significant infrastructure" is proposed in Plan Change 26, which OWL has also made a submission on (in support of that definition).</p>	<p>Amend GRUZ-P3 Reverse Sensitivity as follows:</p> <p><i>Avoid reverse sensitivity effects of non-farm development and residential activity on lawfully established primary production activities, activities that have a direct relationship with or are dependent on primary production, existing renewable electricity generation <u>and infrastructure</u> for regionally significant infrastructure] activities and the Tekapo Military Training Area.</i></p>
General Rural Zone	GRUZ-P4	Support	OWL considers GRUZ P4 aligns with and gives effect to Objective 2.1 and Policies 4, 6, 7 and 8 of the National Policy Statement for Highly Productive Land 2022 (NPS-HPL).	Retain GRUZ-P4 as notified.
General Rural Zone	GRUZ-P5	Oppose in part	OWL is concerned that the term "any existing activities" in GRUZ-P5 is ambiguous. In particular, it is not clear whether the policy is directed at all existing activities or only primary production activities and activities supporting primary production. OWL understands the intention is the latter, but considers that clarity is required as to the intended scope of this policy.	Amend GRUZ-P5 to clarify that the reference to "any existing activities" is not limited to existing primary production activities and activities supporting primary production.
General Rural Zone	GRUZ-P6	Support	OWL considers it is necessary and appropriate for the inclusion of policy directives in the district plan focused on controlling density and location of residential activities in the GRUZ, including to ensure low overall building density and consistency with anticipated character and amenity values. This is important for OWL, as it also serves the purpose of managing potential reverse sensitivity effects of new residential activity in areas adjacent to Lake Opuha and the Opuha Dam on OWL's infrastructure activities.	Retain GRUZ-P6 as notified.

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General Rural Zone	GRUZ-P7	Support	OWL strongly supports the MDC's proposal to introduce greater controls in the MDP on wilding conifers, which it considers is necessary to address the effects associated with the spread of wildings across the Mackenzie District.	Retain GRUZ-P7 as notified.
General Rural Zone	GRUZ-R12	Oppose in Part	OWL supports the provision of new rules that address the establishment of new, or expansion of existing, conservation activity. However, OWL notes that no definition of "conservation activity" is proposed as part of Plan Change 23. As a result, it is difficult to determine the intended range of activities that are intended to fall within the scope of GRUZ-R12.	Include a definition of "Conservation Activity" in the Plan Change.
General Rural Zone	GRUZ-R13	Oppose in part	<p>OWL strongly supports the MDC's proposal to introduce greater controls in the Mackenzie District Plan on commercial forests and woodlots, particularly given the potentially significant effects of such activities on water yield and water quality. However, it considers condition 4 of GRUZ-R13 should be extended to include the Lake Opuha catchment, given the role that the Opuha Dam has in storing and releasing water from that catchment for community water supply and irrigation schemes, and for renewable energy generation at the Opuha Hydro-electric power station. It is noted that these are all considered regionally significant infrastructure activities under the Canterbury Regional Policy Statement, and for the latter, nationally significant under the National Policy Statement for Renewable Electricity Generation 2011 (NPS-REG).</p> <p>Including the Lake Opuha catchment in this condition would mean that commercial forest and wood lots in that location catchment with greater than 2 ha of planting per Record of Title every 5 years would be a restricted discretionary activity. Given the potential effects of such activities on water yield and water quality, OWL considers a restrictive discretionary activity status would be appropriate.</p> <p>A minor consequential adjustment to Matter of Discretion (e) would be required to reflect the change sought by OWL to the wording of condition 4 of GRUZ-R13.</p>	<p>(a) Amend condition 4 of GRUZ-R13 as follows:</p> <p><i>4. Within the Catchments of the Downlands Water Supply with the intake on the Te Ana a Wai / Tenagawai River, and the Timaru Urban Catchment on the Pureora River / Pareora River and Lake Opuha the maximum area of permitted planting is 2ha per Record of Title for every 5 year period.</i></p> <p>(b) Amend matter of discretion (e) as follows:</p> <p><i>e. Effects on water quality and operational resilience of community water supplies and renewable electricity generation facilities.</i></p>
General Rural Zone	GRUZ-R15	Oppose in part	The permitted activity conditions of GRUZ-R15 do not include aircraft and helicopter movements that are for purposes of resource consent and/or water quality monitoring, e.g., lake water quality monitoring. If OWL's submission	Amend condition 1 of GRUZ-R15 to include resource consent monitoring.

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			requesting the removal of the GRUZ over Lake Opuha is rejected by MDC, OWL considers it is appropriate and necessary for this activity to be provided for as a permitted activity under this rule.	
General Rural Zone	GRUZ-R19 & GRUZ-S5	Oppose in part	<p>OWL notes that neither the permitted activity conditions for intensive primary production or the standards for activities in the GRUZ require a suitable set back from waterways. OWL considers this is appropriate and necessary to protect water quality, particularly Lake Opuha's water quality, which is required by its regional resource consent conditions to meet certain standards and the quality of water that it supplies to community schemes downstream of the Opuha Dam.</p> <p>OWL considers the 300m setback from sensitive activities under GRUZ-S5 be extended in its application to surface waterways.</p>	Amend either the conditions of GRUZ-R19 or GRUZ-S5 to require intensive primary production to be setback 300m from any surface waterbody.
General Rural Zone	GRUZ-R21	Support	OWL strongly supports the MDC's proposal to introduce greater controls in the Mackenzie District Plan on wilding conifers, which it considers is necessary to address the effects of the spread of wildings across the Mackenzie District.	Retain GRUZ-R21 as notified.
General Rural Zone	GRUZ-S1	Oppose in part	<p>Land in the vicinity of Lake Opuha and the Opuha Dam, that is located with the Specific Control Area 13 (Eastern Plains) is subject to a density standard that means residential units are permitted if:</p> <ol style="list-style-type: none"> 4. The minimum net site area is 20ha; or 5. The unit is located on a site that: <ol style="list-style-type: none"> a. existed prior to 1 November 2023; b. does not contain any residential unit; and c. has a minimum area of 4ha. 6. The minimum net site area per residential unit is 4ha. <p>OWL is concerned that the terminology used in 5.c. is inconsistent with that used in 6. OWL assumes the intention was for 5.c. to be worded "has a minimum <i>net site area of 4ha</i>".</p>	Amend permitted activity condition 5.c. be amended as follows: 5. c. <i>has a minimum <u>net site area of 4ha</u></i> .
General Rural Zone	GRUZ-MD1	Oppose in part	OWL considers the range of matters of discretion in GRUZ-MD1 are largely appropriate. However, it considers that it is necessary for the matters of discretion to be extended to include: <i>the functional needs and operational needs of the activity</i> . OWL notes that definitions for the terms "function need" and "operational need" are proposed as part of Plan Change 26 (which it supports).	Amend GRUZ-MD1 to include as an additional matter of discretion <i>the functional needs and operational needs of the activity</i> .
Natural Character	NATC-SCHED1	Support	OWL considers it is appropriate that: <ul style="list-style-type: none"> • Lake Opuha is not included in NATC SCHED1; and 	Retain the notified version of NATC SCHED1, particularly: (a) the exclusion of Lake Opuha from the lakes listed; and

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			<ul style="list-style-type: none"> The Ōpihi River (SASM) and Ōpūha/Opuha River (including North and South branches) (SASM) are included in NATC-SCHED1 under “Other Rivers”. 	<p>(b) the inclusion of the following under “Other Rivers”:</p> <ul style="list-style-type: none"> ○ The Ōpihi River (SASM); and ○ Ōpūha/Opuha River (including North and South branches) (SASM).
Natural Character	NATC-P1	Oppose in part	OWL notes that Policy NATC-P1 is implemented by Rules NATC-R1 to R4 and Standard NATC-S1. However, those Rules and Standard NATC-S1 only apply to the surface waterways identified in NATC-SCHED1. OWL considers this should be reflected in the wording of NATC-P1.	<p>Amend NATC-P1 as follows:</p> <p><i>Recognise that natural character of <u>the</u> wetlands, lakes and rivers <u>identified in NATC-SCHED 1</u> and their riparian margins are derived from...</i></p>
Natural Character	NATC-P2	Oppose in part	OWL notes that the NATC-P2 is implemented by Rules NATC-R1 to R4 and Standard NATC-S1. However, those Rules and Standard NATC-S1 only apply to the surface waterways identified in NATC-SCHED1. OWL considers this should be reflected in the wording of NATC-P2.	<p>Amend NATC-P2 as follows:</p> <p><i>Preserve and protect the natural character values of <u>the</u> wetlands, lakes and rivers <u>identified in NATC-SCHED 1</u> and their margins from inappropriate and development by...</i></p>
Natural Character	NATC-R2	Oppose in part	Under NATC-R2, earthworks and stockpiles are permitted so long as they meet certain specified setbacks, unless the earthworks is “associated with a conservation activity”. No definition of “conservation activity” is provided in Plan Change 23, which raises issues as to the intended scope of the rule and could lead to interpretation issues.	Include a definition for “Conservation Activity” in Plan Change 23.
Natural Character	NATC-S1 & Table NATC-1	Support	OWL accepts that the setbacks set out in NATC-S1 and Table NATC-1 are appropriate and necessary to manage the effects of activities on the surface waterways set out in NATC-SCHED1. It also considers the inclusion of Figures NATC-1 and NATC-2 in standard NATC-S1 to be a useful tool to guide the interpretation of plan rules and standards.	Retain NATC-S1, Table NATC-1 and Advisory Notes (including Figures NATC-1 and NATC-2) as notified
Natural Features and Landscapes	Planning Maps and NFL-SCHED1, 2 & 3	Support	OWL considers it is appropriate that these Schedules only apply to identified features in the Mackenzie Basin. In particular, OWL supports the exclusion of Lake Opuha and its surrounds from the planning maps NFL overlay and in the Schedules to this chapter.	Retain NFL-SCHED1, 2 & 3 as notified (which apply to features in the Mackenzie Basin only and exclude Lake Opuha and its surrounds).

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PC 24 – Sites and Areas of Significance to Māori				
Sites and Areas of Significance to Māori	Planning Maps		<p>As part of its review of the Waterbody Sites and Areas of Significance to Māori (SASM) overlay in the planning maps, OWL has identified that the overlay has not been accurately applied. In particular, the extent of the overlay does not accurately align with surface waterway boundaries. For example, the SASM overlay applying to the Ōpūha/Opuha River immediately downstream of the Opuha Dam, which is shown below, does not follow the physical extent of that surface waterbody. This will create issues for the rule interpretation if not fixed.</p> 	Amend the SASM overlay for surface waterways to ensure the boundary of the SASM overlay more accurately reflects the location and extent of current surface waterbodies.

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Chapter	Section/ Provision	Support/Oppose/New	Reasons	
Sites and Areas of Significance to Māori	SASM-P3	Oppose in part	<p>Whilst OWL acknowledges the importance of enabling access to SASM sites and enabling customary activities within them, OWL is concerned that mana whenua access cannot always be made available to such sites, including where access is sought to carry out customary activities. In particular, OWL is concerned that public health and safety reasons (and consequences for liability under health and safety legislation) may preclude access where infrastructure is co-located within SASMs.</p> <p>OWL notes that the Opuha Dam and associated infrastructure schemes are presently co-located in SASMs listed in SCED-1 and potentially where customary activities are, or may be in the future, be carried out if OWL's submission on SCED-1 is not accepted.</p> <p>OWL notes that the Proposed Timaru District Plan's objectives and policies for Public Access and Esplanade expressly acknowledge that public health and safety as a legitimate basis on which public access can be avoided. OWL notes that this approach is not reflected in the public access provisions in Plan Change 27.</p> <p>OWL considers that SASM-P3 should be amended to recognise the statutory health and safety obligations that infrastructure providers, such as OWL, must comply with in the operation of infrastructure, particularly regionally significant infrastructure, which may preclude mana whenua access to SASMs.</p>	<p>Amend SASM-P3 as follows:</p> <p><i>Enable mana whenua to undertake mahika kai within SASM in accordance with tikaka <u>where appropriate</u>.</i></p>
Sites and Areas of Significance to Māori	SASM-P4	Support	OWL considers the direction in SASM-P4 for existing access to SASM to be maintained and encouraging landowners to explore opportunities/methods to provide new access to SASM, where requested by mana whenua, is appropriate.	Retain SASM-P4 as notified.
Sites and Areas of Significance to Māori	SASM-P6	Support	OWL notes that no reference to infrastructure activities in SASMs are addressed in SASM-P6, which OWL understands is because these activities are governed by the rules in the Infrastructure and Renewable Electricity Generation chapters. OWL supports this approach.	Retain the approach adopted by MDC in the district plan review process that infrastructure activities in SASMs are governed by the rules contained in the Infrastructure and Renewable Electricity Generation chapters (not the SASM chapter).
Sites and Areas of Significance to Māori	SASM SCED-1; Table 2 - Waterbodies	Oppose	OWL questions the inclusion of the area comprising the Opuha Dam and associated downstream infrastructure (including the downstream weir retention pond) as being included in SASM26 – Ōpūha River/Opuha River (Wai taoka; Wāhi taoka), as shown in the planning maps. OWL does not consider it appropriate or necessary for this highly modified part of the Lake Opuha/Opuha River system to be classified as SASM under the district plan in the absence of any explanation as to the reason for its inclusion.	Remove the SASM overlay from the area comprising the Opuha Dam and downstream infrastructure, including the downstream weir retention pond, as follows:

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Plan Change 26 – Renewable Electricity Generation and Infrastructure				
Definitions	New Definitions	Support	<p>OWL considers the following new definitions to be appropriate in the context of the provisions of Plan Change 26:</p> <ul style="list-style-type: none"> • Antenna • Earthworks • Functional need • Investigation activities • Network utility operator • Pole • Regionally significant infrastructure • Sensitive activity • Sensitive area 	<p>Retain the following definitions as notified:</p> <ul style="list-style-type: none"> • Antenna • Earthworks • Functional need • Investigation activities • Network utility operator • Pole • Regionally significant infrastructure • Sensitive activity • Sensitive area
Definitions	Definition of "small scale renewable energy	Oppose in part	OWL notes a minor correction is required to the definition of "small scale renewable electricity generation activity"	Amend the definition of "Small scale renewable electricity generation activity" as follows: ...

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Chapter	Section/ Provision	Support/Oppose/New	Reasons	
	generation activity"			<i>b.electricity generated into-to the electricity generation distribution network</i>
Definitions	Definition of "upgrade"	Oppose in part	OWL considers that the definition needs to be clearer so as to include new buildings or structure that may be required as part of an upgrade.	Amend the definition of "upgrade" as follows: <i>In relation to renewable electricity generation activities and infrastructure, means activities undertaken to increase the capacity, operational efficiency, security of safety of existing assets and activities, <u>including new buildings and structures required for those purposes.</u></i>
Infrastructure	Introduction	Oppose in part	<p>The Introduction advises that provisions in other chapters do not apply to activities managed in the Infrastructure chapter, except natural hazards, historical heritage, notable trees, ecosystems and indigenous biodiversity, activities on surface water, light, noise, signs. OWL considers this approach to be appropriate, in particular, that infrastructure activities within certain overlay areas are addressed by the rules in the Infrastructure chapter rather than the chapters addressing those overlay areas (e.g. SASM and NTC).</p> <p>However, unlike other chapters (e.g., GRUZ chapter), the relationship between rules in the Infrastructure Chapter and those in other chapters is only addressed in the Introduction section, rather than in the advisory notes for the rules table. OWL considers that it would be beneficial for a consistent approach to be taken across the district plan in relation to the location of these explanations.</p>	(a) Retain the approach adopted by MDC in the plan review process that infrastructure activities in overlay areas such as SASMs and NTC are governed by the rules contained in the Infrastructure and Renewable Electricity Generation chapters. (b) Amend Plan Change 26 as necessary to ensure the location of the explanation of how rules for infrastructure activities interrelate with rules in other chapters is consistent across all chapters of the district plan. This may require either: <ul style="list-style-type: none"> • The retention of the explanation in the Introduction section of the Infrastructure chapter; or • The explanation to be moved to the "Notes to Plan Users" under the Rules section of the Infrastructure chapter.
Infrastructure	INF-O1	Support	OWL considers INF-O1 provides appropriate guidance on the purpose of the development and maintenance of infrastructure and its integration with subdivision, use and development.	Retain INF-O1 as notified.
Infrastructure	INF-O2	Support	OWL considers INF-O2 appropriately captures the approach that needs to be taken in the district plan in terms of the adverse effects of infrastructure.	Retain INF-O2 as notified.
Infrastructure	INF-O3	Support	OWL considers INF-O3 appropriately captures the approach that needs to be taken in the district plan in terms of the adverse effects on infrastructure.	Retain INF-O3 as notified.
Infrastructure	INF-P1	Support	OWL considers it appropriate for the policy directives in the Infrastructure chapter to recognise the benefits of infrastructure to the district.	Retain INF-P1 as notified.

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Infrastructure	INF-P2	Support	OWL considers it appropriate for the policy directives in the Infrastructure chapter to recognise the need for enabling the ongoing operation, maintenance, replacement, reconstruction, and minor upgrades to, existing infrastructure.	Retain INF-P2 as notified.
Infrastructure	INF-P4	Support	OWL considers it appropriate for the policy directives in the Infrastructure chapter to provide guidance on managing the effects of infrastructure.	Retain INF-P4 as notified.
Infrastructure	INF-P5	Support	OWL supports the effects management hierarchy provided in INF-P5 for dealing with adverse effects in sensitive or significant areas. It also supports the recognition that certain infrastructure will have a functional or operational need for locating in such areas, such as infrastructure activities associated with regionally and nationally significant infrastructure.	Retain INF-P5 as notified, subject to OWL's submission on INF-P7.
Infrastructure	INF-P6	Support	OWL considers INF-P6 is aligned with and gives effect to the NPS-HPL.	Retain INF-P6 as notified.
Infrastructure	INF-P7 (and INF-P5)	Oppose in part	<p>OWL notes it is unclear what the areas of "Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna" that are subject to this policy are, as they do not appear to have been included in the planning maps. OWL's submission on INF-P7 is therefore provided without prejudice to any future submission it may need to make when the locations of "Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna" are mapped and confirmed in the district plan.</p> <p>OWL questions whether the position with respect to the policies applying to regionally significant infrastructure and lifelines utility infrastructure could be more clearly articulated e.g., as part of Policy INF-P5. OWL is concerned that the second part of Policy INF-P7 is particularly confusing in terms of its cross-reference back to INF-P5.</p>	(a) Include areas identified as "Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna" in the district plan and planning maps; (b) Amend INF-P5 and INF- P7 to provide more clarity as to which policies apply to lifeline utility infrastructure and regionally significant infrastructure.
Infrastructure	INF-R1	Support	OWL considers it appropriate that the operation, maintenance or removal of existing infrastructure, including access tracks is a permitted activity.	Retain INF-R1 as notified.
Infrastructure	INF-R2	Support	OWL considers it appropriate for upgrading above ground infrastructure to be enabled through a permitted activity rule.	Retain INF-R2 as notified.
Infrastructure	INF-R3	Oppose in part	OWL considers it is appropriate that the district plan enables minor upgrades for the Opuha Dam, in recognition of its status as regionally significant infrastructure. However, OWL considers the upgrades governed by this rule should include new buildings/structures (so long as they comply with the height limit of the zone in which they are located). OWL considers this could be	(a) Retain REG-R2 as notified, subject to: (i) OWL's submission on the definition of "upgrade"; or in the alternative (ii) Inclusion of a further permitted activity condition as follows:

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			<p>included in the definition of “upgrade” or as a further condition of the Permitted Activity Rule.</p> <p>OWL notes that it may be appropriate for a definition of the Opuha Dam to be included in the district plan as this term, in the context of Rule INF-R3 differs from the term “Opuha Scheme”, which is used and has been defined in Plan Change 18 (Indigenous Biodiversity) (<i>Opuha Scheme: means the electricity generation activity associated with the Opuha Dam and power station (including the regulating pond and downstream weir) and all structures, works, facilities, components, plant and activities undertaken to facilitate that generation.</i>)</p>	<p><i>Any new building or structure shall comply with the height limit for the zone in which the activity is located.</i></p> <p>(b) Consideration be given to Including a definition of the term “Opuha Dam”.</p>
Infrastructure	INF-R4	Support	OWL considers it appropriate for temporary infrastructure to be enabled through a permitted activity rule.	Retain INF-R4 as notified.
Infrastructure	INF-R5	Support	OWL considers it appropriate for navigational aids, meteorological, sensing and environmental monitoring equipment to be enabled through permitted activity rules.	Retain INF-R5 as notified.
Infrastructure	INF-R6	Support	OWL considers the permitted activity standards for all infrastructure buildings/structures not otherwise provided for in INF-R6 are appropriate.	Retain INF-R6 as notified.
Infrastructure	INF-R7	Oppose in part	OWL considers the conditions of INF-R7 and the applicable standards to be appropriate for the activities governed by this rule.	Retain INF-R7 as notified.
Infrastructure	INF-R8	Support	OWL considers the conditions of INF-R8 and the applicable standards to be appropriate for the activities governed by this rule.	Retain INF-R8 as notified.
Infrastructure	INF-R9	Oppose in part	<p>OWL considers it would be appropriate for this rule to be expanded to apply to reservoirs containing less than 22,700 litres, wells and supply intakes associated with regionally significant infrastructure, such as established community-scale irrigation and stockwater infrastructure. It is unclear why this rule has been limited in scope to such activities associated with public water supply.</p> <p>In OWL’s view, expanding the scope of this rule to the stated activities associated with Regionally Significant Infrastructure is required to implement Policy INF-P1, by recognising the benefits of such infrastructure.</p>	<p>Amend the heading of INF-R9 as follows:</p> <p><i>Reservoirs Containing less than 22,700 litres, Wells and Supply Intakes for the Reticulation or Provision of Public Water Supply or associated with Regionally Significant Infrastructure</i></p>
Infrastructure	INF-R10	Support	OWL considers the conditions of INF-R7 and applicable standards to be appropriate for the activities governed by this rule.	Retain INF-R10 as notified, subject to OWL’s submissions on INF-R3 and INF-R7 being accepted.

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Infrastructure	INF-R11	Support	Provided OWL's submission on Rule INF-R3 and R7 are accepted, OWL considers the discretionary activity status is appropriate for any infrastructure activities not otherwise listed.	
Infrastructure	INF-S1 to S3	Support	OWL considers standards INF-S1 to S3 are appropriate.	Retain INF-S1 to S3 as notified.
Infrastructure	INF-MD1	Support	OWL considers INF-MD1 provides an appropriate range of matters of discretion for resource consent applications associated with infrastructure activities.	Retain INF-MD1 as notified.
Renewable Electricity Generation	Introduction	Support	OWL considers it is appropriate that the Opuha Hydro-electric Power Station is recognised in the introduction of this chapter.	Retain the Introduction as notified.
Renewable Electricity Generation	Objectives REG-O1, REG-O2; Policies REG-P1, REG-P4, REG-P5 and REG-P6	Support	OWL considers the objectives and policy framework in this chapter align with and give effect to the NPS-REG.	Retain REG-O1, REG-O2, REG-P1, REG-P4, REG-P5 and REG-P6 as notified.
Renewable Electricity Generation	REG-R1	Support	OWL considers this rule aligns with and gives effect to the NPS-REG, whilst also implementing REG-O1 and REG-P1	Retain REG-R1 as notified.
Renewable Electricity Generation	REG-R2	Oppose in part	<p>OWL considers it appropriate for the chapter to include a permitted activity rule for the upgrade of existing HEPS and associated structures associated with the "Opuha Scheme". OWL considers this rule aligns with and gives effect to the NPS-REG, whilst also implementing REG-O1 and REG-P1. However, it considers the upgrades governed by this rule should include new buildings/structures (so long as they comply with the height limit of the zone in which they are located). OWL considers this could be included in the definition of "upgrade" or as a further condition of the Permitted Activity Rule.</p> <p>OWL notes that a definition for "Opuha Scheme" has been included in the district plan through Plan Change 18 (Indigenous Biodiversity).</p>	<p>Retain REG-R2 as notified, subject to:</p> <ul style="list-style-type: none"> a. OWL's submission on the definition of "upgrade"; or in the alternative b. Inclusion of a further permitted activity condition as follows: <p><i>Any new building or structure shall comply with the height limit for the zone in which the activity is located.</i></p>
Renewable Electricity Generation	REG-R4	Support	OWL considers a controlled activity status is appropriate for the development of new renewable electricity generation activities associated with existing HEPS	Retain REG-R3 as notified.

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			where the activity satisfies condition 1, and restricted discretionary activity status where that condition is not complied with.	
Renewable Electricity Generation	REG-R5	Support	OWL considers it appropriate for investigation activities to be provided for through Rule REG-R6.	Retain REG-R5 as notified.
Renewable Electricity Generation	REG-R6	Support	OWL considers it is appropriate for small-scale renewable electricity generation activities to be provided for through Rule REG-R6.	Retain REG-R6 as notified.
Renewable Electricity Generation	REG-R7	Support	Subject to OWL's submissions on the scope of "upgrades" to the Opuha Scheme, OWL considers it is appropriate for all renewable electricity generation activities not otherwise listed to be provided for through Rule REG-R6.	Retain REG-R7 as notified, subject to OWL's submission on REG-R2.
Renewable Electricity Generation	REG-MD1 to MD4	Support	OWL considers the range of matters of discretion provided for in REG-MD1 to MD4 is appropriate.	Retain REG-MD1 to MD4 as notified.
Plan Change 27 – Earthworks, Subdivision, Public Access, and Transport				
Public Access	PA-O1	Oppose in part	Objective PA-O1 needs to recognise that health and safety consideration may mean that public access to and along surface waterbodies is not appropriate. This will be the case in locations where OWL scheme infrastructure exists and allowing public access would conflict with OWL's obligations under the Health and Safety in Work Act 2015. OWL considers this needs to be acknowledged in PA-O1.	Amend PC-O1 as follows (or to similar effect): <i>Access to and along surface water bodies with recreational, scenic, ecological, indigenous biodiversity, conservation, mana whenua or amenity values is maintained or improved, <u>where appropriate</u>.</i>
Public Access	PA-P1	Oppose in part	OWL is concerned that Policy PA-P1 directs that "the provision of appropriate public access" is required in the <i>Ōpihi River between Ōpihi Gorge and Stoneleigh Road</i> , which is included in PA-SCHED1. As currently worded, it is unclear whether the Policy expressly allow for situations where public access may not be appropriate in that location. Various OWL scheme infrastructure and infrastructure owned/operated by OWL's shareholders are located in this stretch of waterway. Requiring public access to areas where this infrastructure is located would conflict with the obligations OWL and its shareholders have under the Health and Safety in Work Act 2015. OWL considers this needs to be acknowledged in PA-P1.	Amend PC-P1 as follows (or to similar effect): <i>Require the provision of <u>appropriate</u> public access to and along surface water bodies listed in PA-SCHED1 <u>where appropriate</u>.</i>

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Public Access	PA-P2	Oppose in part	<p>OWL is concerned that Policy PA-P2 may require public access to be provided along the various surface waterways listed in PA-SCHED2, where OWL scheme infrastructure and infrastructure owned/operated by OWL's shareholders is located.</p> <p>Requiring public access to areas where this infrastructure is located would conflict with the obligations OWL and its shareholders have under the Health and Safety in Work Act 2015. OWL considers this needs to be acknowledged in PA-P1.</p> <p>OWL addresses the errors in PA-SCHED2 in a separate submission below.</p>	<p>Amend PC-P2 as follows (or to similar effect):</p> <p><i>Encourage opportunities and mechanisms to maintain and enhance public access to and along surface waterbodies, including for mahika kai, when a land use or subdivision consent application provides opportunities for access, with special consideration given to:</i></p> <ol style="list-style-type: none"> 1. <i>Those waterbodies listed in PA-SCHED2; and</i> 2. <i>The creation of any allotment smaller than 4ha which adjoins a waterbody; and</i> 3. <i>The implications of providing public access for health and safety obligations.</i> 								
Public Access	PA-S1	Oppose in part	<p>OWL is concerned that PA-S1 does not reflect the directions of PA-P1 and PA-P2. In particular, PA-P2 directs that consideration will be given to the provision for allotments smaller than 4ha along waterbodies listed in PA-SCHED2. This is not a mandatory direction for the provision of public access, and PA-P1 does not include such directives in relation to allotments smaller than 4ha. OWL considers this error needs to be corrected.</p> <p>OWL also notes it is not clear what public access standard applies for the creation of allotments over 4ha in size or land use consent applications. OWL considers this needs to be addressed in this chapter</p> <p>OWL also considers that the matters of discretion listed for RDIS should include health and safety considerations.</p>	<p>Amend PA-S1 to:</p> <ol style="list-style-type: none"> (a) Align with the directive of PA-P1; (b) Clarify the public access requirements for allotments over 4ha in size or land use consent applications; and (c) Include health and safety considerations as a further matter of discretion. 								
Public Access	PA-SCHED2	Oppose in part	<p>PA-SCHED2 includes the following:</p> <table border="1"> <thead> <tr> <th>Waterbody</th> <th>Location</th> </tr> </thead> <tbody> <tr> <td>Opūaha /Opuha River Between Opuha Dam and State Highway 8</td> <td>Location</td> </tr> </tbody> </table>	Waterbody	Location	Opūaha /Opuha River Between Opuha Dam and State Highway 8	Location	<p>Amend PA-SCHED2 as follows:</p> <table border="1"> <thead> <tr> <th>Waterbody</th> <th>Location</th> </tr> </thead> <tbody> <tr> <td>Opūaha /Opuha River Between Opuha Dam and State Highway 8</td> <td>Location Between Opuha Dam and State Highway 79</td> </tr> </tbody> </table>	Waterbody	Location	Opūaha /Opuha River Between Opuha Dam and State Highway 8	Location Between Opuha Dam and State Highway 79
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			OWL notes that it is State Highway 79 that crosses the Opūaha /Opuha River (not State Highway 8). OWL also assumes the words “Between Opuha Dam...” should be in the “Location” column of the table.	
Subdivision	Policies	Oppose in part	OWL notes that the policy direction is not provided for subdivisions to create access, reserve, or to house infrastructure. OWL considers that this would be appropriate and necessary to provide policy guidance on these matters, which are implemented by Rule SUB-R3.	Include new policy guidance for subdivisions to create access, reserve or infrastructure sites.
Subdivision	SUB-P10	Oppose in part	OWL considers it appropriate for the district plan to provide policy direction in relation to protecting existing renewable energy generation assets/activities from reverse sensitivity effects. However, it considers it would also be appropriate to extend such policy direction to infrastructure more generally, or at the very least, regionally significant infrastructure.	Amend SUB-P10 as follows: <i>Avoid reverse sensitivity effects of subdivision on existing renewable electricity generation assets <u>and infrastructure</u> [or <u>regionally significant infrastructure</u>]</i>
Subdivision	SUB-R2	Support	OWL considers the restricted discretionary status of subdivisions governed by this rule is appropriate.	Retain Sub-R2 as notified.
Subdivision	SUB-R3	Support	OWL considers it appropriate for the chapter to provide a standalone rule for subdivision to create access, reserves or infrastructure sites.	Retain SUB-R3 as notified.
Subdivision	SUB-S1	Support	OWL considers the standards and activity status for standards that are not complied with in relation to subdivisions in the GRUZ Specific Control Area 13 – Eastern Plains, which adjoins Lake Opuha and the Opuha Dam and related infrastructure, are appropriate.	Retain SUB-S1 as notified.
Subdivision	SUB-MD7 and 8	Support	OWL considers the range of matters of discretion in SUB-MD7 and SUB-MD8 are appropriate.	Retain SUB-MD7 and SUB-MD8 as notified.
Earthworks	All	Support	OWL considers it is appropriate that the rules in this chapter do not apply to infrastructure activities, as the INF and REG chapters prevail over the EW chapter.	Retain the approach taken in the district plan review whereby earthworks activities associated with infrastructure and renewable electricity generation activities are governed by the rules in the Infrastructure and Renewable Electricity Generation chapters.
Earthworks	EW-S4	Support	OWL notes that EW-S4 (accidental discovery protocol) is required to be complied with under some of the INF/REG rules. OWL considers this is appropriate.	Retain EW-S4 as notified.