

To David Parker, Alayna Limmer
From Ben Farrell
Date 4 November 2025
Subject Clutha Pumped Hydro Scheme: Review of RMA Plans for Prohibited Activities

Introduction

Purpose

This memo summarises findings of a review of the relevant RMA provisions to identify what, if any, prohibitive activities might be triggered by the proposed Clutha Pumped Hydro Scheme (CPH).

Preliminary findings

The CPH has the potential to include two prohibited activities under the operative Otago Regional Water Plan (updated August 2025), under rules 12.C.0.3 and 13.6.1.1, as follows:

- **Rule 12.C.0.3** prohibits " *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, where no measure is taken to mitigate sediment runoff*". The CPH will disturb land through the construction process. During construction measures will be taken to mitigate sediment runoff and is anticipated to comply with this rule. However, after construction, and subject to interpretation of Rule 12.C.0.3, there is potential that lowering the lake levels (from time to time as proposed) may result in unmitigated sediment runoff from 'disturbed land' into a lake, river, or Regionally Significant Wetland.
- **Rule 13.6.1.1** prohibits the introduction of plant/vegetation material of certain pest species to the bed or water of any Otago lake, river, or any Regionally Significant Wetland. The CPH will pump water from the Clutha River / Mata-Au to Lake Onslow and will affect rivers and a Regionally Significant Wetland. The Clutha River / Mata-Au is known to contain some of the listed pest species subject to this rule, including *Lagarosiphon*. It is unclear if Lake Onslow would support, or already contains, any of the listed pest plant species. Consequently, there is potential for the CPH to introduce material from the listed plant species, including *Lagarosiphon*, to a lake, river, or Regionally Significant Wetland.

Practically, detailed investigation at the substantive application / consenting stage would confirm if the CPH will or will not trigger the abovementioned prohibited activities.

Information relied on

Numerous publications and reports available from MBIE's website have been used to understand the proposal, as well as the "project description for consultation purposes" (copy attached) prepared for the purposes of the FTA Referral application process. The following RMA plans have been reviewed:

- All National Environmental Standards (NES)
- Otago Regional Water Plan
- Otago Regional Air Plan
- Otago Regional Coastal Plan
- Central Otago District Council District Plan

National Environmental Standards

Table 1 Review of National Environmental Standards

National Environmental Standard	Comment
National Environmental Standards for Freshwater 2020	Contains prohibited activities but do not capture the proposal, as the proposal is “specified infrastructure” – either “any water storage infrastructure” or “regionally significant infrastructure” identified in the Otago RPS (by virtue of the proposal being “renewable electricity generation” <i>(means the construction, operation and maintenance of structures associated with renewable electricity generation. This includes small and community-scale distributed renewable generation activities and the system of electricity conveyance required to convey electricity to the distribution network and/or the national grid and electricity storage technologies associated with renewable electricity).</i>
National Environmental Standard for Air Quality	Contains prohibited activities in relation to discharges to air from burning or setting fire or incinerating certain materials, none of which is anticipated from the proposal.
National Environmental Standards for Telecommunications Facilities 2016¹	The proposal is assumed to potentially include telecommunication facilities, but the NES-TF does not contain prohibited activities (except for regulated activities classified as prohibited activities in a district plan).
Resource Management (National Environmental Standards for Commercial Forestry)	The proposal does not include commercial forestry
National Environmental Standards for Electricity Transmission Activities 2009	The NES does not include prohibited activities
National Environmental Standard for Sources of Drinking Water 2007	The NES does not include prohibited activities
National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011	The NES does not include prohibited activities
National Environmental Standard for Marine Aquaculture 2020	The site is outside the marine environment, so the NES does not apply
National Environmental Standard for Storing Tyres Outdoors 2021	The proposal does not include storing tyres
National Environmental Standards for Greenhouse Gas Emissions from Industrial Process Heat 2023	The NES includes prohibited activities (burning of coal in certain circumstances) but the proposal does not include burning of coal

¹ Classifies regulated activities that are ‘prohibited activities’ in a district plan as prohibited

Otago Regional Water Plan

Upon review of the ORC Regional Water Plan (Table 2 below) there appear to be 18 Rules that prohibit certain activities (prohibited activities). Of these only Rules 12.C.0.3 and 13.6.1.1 appear to be applicable, as discussed above and in Table 2 below.

Table 2 Otago Regional Water Plan: Prohibited Activity Rules

Rule	Standard	Applicability	Comment
12.0.1	Taking water		
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.	Not applicable	Policy 6.4.2 refers to waterbodies listed in Schedule 2. The Teviot or Clutha Rivers are not listed in Schedule 2, and no MALF / primary allocation has been set for the Clutha that would be affected.
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.	Not applicable	Policy 6.4.2 refers to waterbodies listed in Schedule 2. The Teviot or Clutha Rivers are not listed in Schedule 2, and no MALF / primary allocation has been set for the Clutha that would be affected.
12.0.1.3	The application to take groundwater ... from an aquifer identified in Schedule 4A	Not applicable	Teviot or Clutha Rivers not listed in Schedule 4A
12.0.1.4	Repealed	Not applicable	n/a
12.0.1.5	The taking and use of water from the Lindis River ...	Not applicable	Not taking water from the Lindis
12.1	Taking and using water		
12.1.1.1	The taking and use of surface water from Lake Tuakitoto	Not applicable	Not taking surface water from Lake Tuakitoto
12.1.1.2	The taking and use of surface water for nuclear power generation or nuclear weapon manufacturing	Not applicable	Proposal not nuclear
12.2	The taking and use of groundwater		
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.	Not applicable	Proposal not nuclear
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.	Not applicable	Not taking ground water from Lake Tuakitoto
12.3	The damming or diversion of water		
12.3.1.1	The damming of the Kawarau, Shotover, Dart, Rees Rivers, Diamond Lake, Diamond Creek, Lake Reid	Not applicable	Not damming these waterbodies

12.3.1.2	The damming of Lake Wanaka and of the Upper Clutha River/Mata Au between F40:050089 to F40:088067	Not applicable	The site is not near this location (near Wanaka)
12.3.1.3	The damming of the Pomahaka including its tributaries, Waipahi River, and Lower Clutha River/Mata-Au from its confluence with the Pomahaka River to the sea	Not applicable	Not damming these waterbodies (which are on the true right of the Clutha River/Mata-Au, or below the Teviot Rivers confluence with the Clutha River
12.3.1.4	The diversion of surface water from Lake Tuakitoto ...	Not applicable	Not damming this waterbody
12.C	Other Discharges		
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.	Not Applicable	The site affects Lake Onslow, Teviot River, and Regionally Significant Wetland (RSW). However, the nature of the proposal is that it will not result in any discharge of contaminant producing objectionable odour, or a conspicuous oil or grease film, scum, or foam to a lake, river, or regionally significant wetland.
12.C.0.2	Discharge of contaminants from silage storage or composting processes...	Not applicable	The proposal does not include any silage storage or composting processes
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.	Applicable	The site affects Lake Onslow, Teviot River, and Regionally Significant Wetland (RSW). It is assumed all construction activities will include measures to mitigate sediment runoff to all waterbodies. However, post-construction, it is possible that disturbed land may result in unmitigated sediment discharges into water.
12.C.0.4	Discharge of animal effluent	Not applicable	The proposal does not include any discharge of animal effluent
13.6	The introduction of planting of vegetation		
13.6.1.1	The introduction of material of the following species: (i) Lagarosiphon Lagarosiphon major; or (ii) Eel Grass Vallisneria spiralis; or (iii) Egeria Egeria densa; or (iv) Hornwort Ceratophyllum demersum; or (v) Hydrilla Hydrilla verticillata; or (vi) Sagittaria Sagittaria graminea ssp platyphylla; or (vii) Spartina Spartina anglica; or (viii) Salvinia Salvinia molesta; or (ix) Water Hyacinth Eichhornia crassipes; or (x) Water Lettuce Pistia stratiotes, to the bed or water of any Otago lake, river, or any Regionally Significant Wetland, is a prohibited activity	Applicable	The site affects Lake Onslow, Teviot River, and Regionally Significant Wetland (RSW), and the CPH will pump water from the Clutha River / Mata-Au to Lake Onslow, which is assumed to not contain such pest plant species. Consequently, there is potential for the CPH to introduce material from the listed plant species, including Lagarosiphon to a lake, river or RSW.

Otago Regional Air Plan

Upon review of the ORC Regional Air Plan (Table 3 below) four Rules prohibit certain discharges to air (prohibited activities). None of these appear to be applicable to the proposal.

Table 3 Otago Regional Air Plan: Prohibited Activity Rules

Rule	Standard	Applicability	Comment
16.3.1.1	Certain discharges of contaminants into air from domestic heating appliances	Not applicable	No domestic heating proposed
16.3.3.1	Burning or incineration of the following specified materials (a) Chlorinated organic chemicals including, but not limited to, dioxins, furans, polychlorinated biphenyls (PCB); (b) Contaminated material from contaminated sites and buildings; (c) Food waste; (d) Materials containing heavy metals; (e) Material associated with the recovery of metal from coated or covered cables; (f) Motor vehicles and vehicle parts; (g) Materials containing mineral fibres including but not limited to asbestos; (h) Paint and other surface coatings; (i) Pathological materials excluding animal carcasses on production land; (j) Agrichemicals and agrichemical waste; (k) All plastic, including, but not limited to, polyvinylchloride (PVC), polystyrene, nylon, styrofoam, but not including polyethylene; (l) Tyres and other rubber; (m) Timber treated with copper, chrome and arsenic (CCA) or organochlorine preservatives; (n) Waste oil or other waste petroleum products; or (o) Sewage sludge and associated solids, or solids derived from liquid-borne municipal, industrial or trade waste; or (p) Asphalt surfaces (seal burning);	Not Applicable	No burning or incineration of the specified materials will occur
16.3.12.1	Discharges from nuclear power generation or nuclear weapon manufacturing	Not applicable	Proposal not nuclear
16.3.15.1	Discharges of PM ₁₀ to air is a prohibited activity, unless provided for elsewhere in the plan.	Not applicable	Proposal will not include any discharge of PM ₁₀ to air

Otago Regional Coastal Plan

The site is not located within the coastal environment, so the Otago Regional Coastal Plan is not applicable.

Central Otago District Plan

The proposal is located on landholdings with the underlying zoning of "Rural Resource Area", with multiple "overlays", in relation to: Heritage Buildings; High Voltage Lines; Landscape Management Area; Outstanding Natural Landscape; Significant Amenity Landscape; and Significant Natural Landscape. Upon review of the relevant provisions, there are two prohibited activity status (relating to use of nuclear energy and the planting of Lodgepole Pine (*Pinus contorta*) respectively, neither of which are applicable to the proposal.

Signed



Ben Farrell

4 November 2025