

## 18.3 TAKES, USES, DIVERSIONS, AND DAMMING OF WATER

### 18.3.1 Permitted Activities

**Note:** Rules in Section 18.2 also apply to bed disturbance and erecting or altering any structure in a lakebed or riverbed.

#### Rule 39. Take and use of water from listed sources

The taking and use of surface water from the main stem of the:

- Karamea River;
- Buller River downstream of Te Kuha (BS21:921678);
- Grey River downstream of the Clarke River confluence;
- Ahaura River downstream of Jims flat (BT21:955015);
- Taramakau River downstream of the Otira River confluence;
- Hokitika River;
- Whataroa River;
- Haast River;
- Arawhata River;
- Mikonui River;
- Waitaha River;
- Wanganui River;
- Waiho River;
- Karangarua River; or
- Paringa River

is a **permitted activity** if all of the following conditions are met:

- (a) The total take per landholding including both consented and permitted takes does not exceed 50 litres per second, up to a maximum volume of 1,500,000 litres per day; and
- (b) The water is used on the land holding except where the purpose is for a community water supply; and
- (c) The intake is protected by a fish screen which ensures as far as is practicable, that eels, fish and fry are prevented from passing through the intake and from being trapped against the fish screen; and
- (d) The Council is informed in writing of the location, expected rate and frequency of the take prior to the take occurring and contact details of the person taking.

**Note:** The Council will from time to time monitor and verify the location, frequency, and rate of take as appropriate.

#### Rule 40. Take and use of water where not permitted by Rule 39

Where not permitted by Rule 39, the taking and use of surface water is a **permitted activity** if all of the following conditions are met:

- (a) The total take per landholding does not exceed 2 litres per second, up to a maximum volume of 25,000 litres per day; and
- (b) No other lawful take of water is adversely affected as a result of the take; and
- (c) The intake is protected by a fish screen which ensures as far as is practicable, that eels, fish and fry are prevented from passing through the intake and from being trapped against the fish screen; and
- (d) The Council is informed in writing of the location, expected rate and frequency of the take prior to the take occurring and contact details of the person taking.

#### Rule 41 Water take and use or diversion for small scale hydro electricity generation

The take, use or diversion of surface water for small scale hydro electricity generation is a **permitted activity** provided that all of the following conditions are met:

- (a) The total rate of take does not exceed 200 litres per second; and
- (b) The rate of take does not exceed 25% of the instantaneous river flow at the point of take; and
- (c) No other lawful take of water is adversely affected by the take; and
- (d) The intake is protected by a fish screen which ensures as far as is practicable that eels, fish and fry are prevented from passing through the intake and from being trapped against the fish screen; and
- (e) The Council is informed in writing of the location, expected rate and frequency of the take prior to the take occurring, and contact details of the person taking water; and
- (f) On request from the Council, the user shall cease water use for a period not exceeding 48 hours to undertake monitoring of the natural water flows; and
- (g) On request from the Council, the user shall measure and record daily totals of water taken and the residual water flow immediately downstream of the take or diversion point. These records shall be provided to Council when requested.

### Explanation

This Rule enables people to use water to generate hydroelectricity, provided the above conditions are met. If all conditions are met, the effects of such an activity will be no more than minor. This Rule is considered to be consistent with, and reflect the intent of the National Policy Statement for Renewable Electricity Generation (2011). The conditions of Rule 67 must be met for the subsequent discharge of water.

## Rule 42. Temporary take and use

Any take and use of surface water for no more than ten days in any one month and for no more than six consecutive months, is a **permitted activity**, providing:

- (a) The rate of take is no greater than ten litres per second, up to a maximum volume of 150,000 litres per day; and
- (b) No other lawful take of water is adversely affected by the take; and
- (c) No more than one take per person occurs from any surface water body; and
- (d) The intake is protected by a fish screen which ensures as far as is practicable, that eels, fish and fry are prevented from passing through the intake and from being trapped against the fish screen; and
- (e) The total volume of water taken does not exceed 20% of the instantaneous flow.

## Rule 43. Transfer of a water permit

In accordance with s136(2)(b)(i) of the RMA, the transfer of a water permit for the taking of surface water is a **permitted activity**, provided:

- (a) The transfer is within the same river to any point downstream (excluding downstream tributaries) of the location to which the permit currently applies; and
- (b) Written notice signed by the transferor and transferee is given within 14 days to the Council, specifying:
  - i) Full names and addresses of transferor and transferee; and
  - ii) The current permit number; and
  - iii) The location of new take site (show on map or give NZTopo 250 map reference); and
  - iv) The proposed daily volume and rate of take at new site; and
  - v) The date of transfer; and
  - vi) A description of the purpose for which water is to be used.

### Explanation

Rules 39 and 40 provide for takes that have no more than a minor effect as a permitted activity, to avoid the need for these activities to apply for a resource consent. Rule 42 allows for short duration takes at a higher rate than Rule 40. Rule 43 reduces administration costs for transfers to downstream locations on the same water body.

#### Rule 44. Take and use of groundwater

The taking and use of groundwater is a **permitted activity** if all of the following conditions are met:

- (a) The total take does not exceed two litres per second, up to a maximum volume of 50,000 litres per day; and
- (b) Any well shall be located not less than 20 metres from any adjacent well or the Coastal Marine Area and from any septic tank disposal field or effluent treatment ponds or silage storage areas; and
- (c) Any well or bore not primarily used for potable water supply shall be located not less than 20 metres from any sewage effluent disposal field, agricultural effluent treatment ponds, silage storage areas, or feed lots or wintering pads; and
- (d) Any well or bore used primarily for potable water supply shall be located not less than:
  - i) 100 metres from a sewage effluent discharge, where the discharge is from a soak pit; or
  - ii) 50 metres from a sewage effluent discharge where the discharge is from other treatment systems; or
  - iii) 50 metres from a pit toilet; or
  - iv) 50 metres from any effluent treatment ponds, silage storage areas, feed lots or wintering pads, or offal pits; and
- (e) Any bore shall be located not less than 200 metres from any adjacent bore; and
- (f) No existing lawful take of water is adversely affected as a result of the taking; and
- (g) The council is informed in writing of the location, expected rate and frequency of the take prior to the take occurring and contact details of the person taking; and
- (h) The bore or well casing and headworks prevent:
  - (i) The infiltration of contaminants; and
  - (ii) The uncontrolled discharge or leakage of water to the surface and between aquifers.

**Note:** The Council has best practice information available on the materials and construction of wells and bores to prevent contamination. The Council will from time to time monitor and verify the location, frequency and rate of take as appropriate.

#### Rule 45. Bore development and pumping tests

The taking and use of groundwater for bore development and pumping tests is a **permitted activity** if all of the following conditions are met:

- (a) Any well shall be located not less than 20 metres from any adjacent well or the Coastal Marine Area or from any septic tank disposal field or effluent treatment ponds or silage storage areas; and
- (b) Any bore shall be located not less than 200 metres from any adjacent bore; and
- (c) No existing lawful take of water is adversely affected as a result of the taking.

**Note:** The 20m setback from septic tank disposal fields applies unless the bore or well is for potable use, then a greater separation distance is required under Rule 79 and 80 for permitted on-site sewage effluent discharges to land.

In addition to these permitted activities for the taking and use of surface and groundwater, the RMA (S14) permits the taking and use of water for an individual's reasonable domestic needs, or for the reasonable needs of an individual's animals for drinking water; provided the taking does not, or is not likely to have an adverse effect on the environment.

#### Rule 46. Slope dewatering

The taking or diversion of groundwater for the purpose of slope dewatering associated with road or railway maintenance or construction is a **permitted activity**, provided it does not affect a natural wetland.

#### Explanation

Rules 44 to 46 provide for small groundwater takes where effects will be no more than minor to avoid the need for a resource consent.

The Rules in Section 18.2 of this Plan also apply to any activity that involves bed disturbance and erecting or altering any structure in a lakebed or riverbed. Section 18.1 contains earthworks rules that control land drainage activities.

#### **Rule 47. Temporary diversion of water**

The temporary diversion of water for the purpose of the:

- (i) Maintenance or repair of any lawfully existing structure (excluding any whitebait stand); or
- (ii) Erection or placement, extension or alteration, maintenance, repair or reconstruction, or removal or demolition of any structure in accordance with Rules 20, 22, 23, 24 or 25 of this Plan.

is a **permitted activity** if all of the following conditions are met:

- (a) The diverted river flow remains within the river bed; and
- (b) The duration of the diversion does not exceed two weeks; and
- (c) No lawful take of water is adversely affected as a result of the diversion; and
- (d) Fish passage through the diversion area is maintained and any fish stranded during the works are transferred to the flowing part of the river; and
- (e) The diversion does not cause or exacerbate flooding of another person's property, erosion, land instability, or property damage; and
- (f) At least seven days prior to the diversion occurring the Council is provided with a plan showing the proposed works in relation to the river flow and bed form, and a photo of the area of river to be diverted taken from a fixed reference point, and within seven days of the completion of the works a second photo is provided to the Council taken from the same fixed reference point; and
- (g) Upon completion of the work, the river is returned as far as is practicable to its previous course, with similar bed form.

**Note:** Rule 47 does not apply to the damming of water.

#### **Rule 48. Permanent diversion of water**

The permanent diversion of water from an existing lawful structure (excluding any whitebait stand) or from a new structure erected or placed in accordance with Rules 22, 23, 24, or 25 is a **permitted activity** if all of the following conditions are met:

- (a) The diverted river flow remains within the river bed; and
- (b) The diversion does not cause or exacerbate flooding of another person's property, erosion, land instability, sedimentation or property damage.

**Note:** This Rule relates to existing authorised structures in rivers that cause water to divert off their surfaces (e.g. rock protection works).

#### **Rule 49. Diversion and/or take of water in a drain**

The diversion and/or taking of water in a drain, provided the drain is formed in accordance with Rule 3 (f)(iii) and (iv), and Rule 3 (j), is a **permitted activity**.

#### **Rule 50. Damming of water**

The damming of water is a **permitted activity** if all of the following conditions are met:

- (a) The size of the catchment upstream of the dam does not exceed 50 hectares; and
- (b) The water depth is no more than 3 metres at the dam face and the total water volume stored by the dam does not exceed 20,000 cubic metres; and

- (c) The damming does not cause or exacerbate flooding of another person's property, erosion, land instability, sedimentation or property damage; and
- (d) The dam is not located less than 20 metres above mean sea level; and
- (e) If constructed in permanently flowing streams, the dam allows a residual flow of 75% of MALF or the instantaneous flow whichever is the lesser; and
- (f) Council is informed in writing of the location of the dam and the method of construction proposed, at least seven days prior to commencing the erection or placement of the dam; and
- (g) A spillway is constructed, designed to pass the probable maximum flood; and
- (h) For sites where fish are present, effective fish passage is provided for; and
- (i) No lawful take of water is affected by the damming; and
- (j) There shall be no inundation of a natural wetland.

**Notes:** Council will check the sites where a dam is to be constructed and undertake fish surveys to ensure that the person undertaking this activity has complied with condition (b). Council staff may also be available to assist with fish surveys prior to the dam's construction, if requested.

Rule 24 may also be relevant to this activity.

### **Rule 51. Diversion of natural runoff - contaminated and uncontaminated**

The diversion (whether in pipes, constructed channels or otherwise) of stormwater runoff that is not contaminated, or of runoff that is contaminated to a water treatment system, is a **permitted activity** provided:

- (a) For the non-contaminated water:
  - i) The diversion does not cause or exacerbate: flooding or ponding of water on another person's property, erosion, land instability, sedimentation or property damage; and
  - ii) The diversion does not affect any natural wetland; and
  - iii) The diversion is incidental to permitted or consented earthworks; and
  - iv) The diversion does not relate to the diversion of runoff from an area greater than 20 hectares; and
- (b) For contaminated water:
  - i) The water is diverted to a water treatment system or plant; and
  - ii) The diversion is incidental to permitted or consented earthworks.

#### **Explanation**

Rules 47, 48, 49, and 50 provide for activities that will result in no more than minor effects and avoid the need for a resource consent.

**Note:** Any discharge associated with a waterbody must meet the conditions of Rule 64.

### **18.3.2 Controlled Takes, Uses, Diversions and Damming of Water**

#### **Rule 52. Community water supply takes from surface water**

The taking and use of surface water for community water supply by any take identified in Schedule 7B, up to the volume and rate authorised as at 31 March 2004, is a **controlled activity**.

In granting any resource consent for the taking of surface water in terms of this Rule, the Council will restrict the exercise of its control to the following:

- (a) Any need for a residual flow at the point of take;
- (b) The intake is protected by a fish screen which ensures as far as it is practicable, that eels, fish and fry are prevented from passing through the intake and from being trapped against the fish screen;
- (c) The means and timing of the take, and the rate of take;
- (d) The quantity of water required to meet the needs of the community;
- (e) The duration of the resource consent;
- (f) The information and monitoring requirements;
- (g) Any bond; and

- (h) The review of conditions of the resource consent.

### **Rule 53. Community water supply takes from groundwater**

The taking and use of groundwater for community water supply by any take identified in Schedule 7B, up to the volume and rate authorised as at 31 March 2004, is a **controlled activity**.

In granting any resource consent for the taking of ground water in terms of this Rule, the Council will restrict the exercise of its control to the following:

- (a) Any adverse effect on any existing lawful take of water;
- (b) Any adverse effect on any connected surface water body;
- (c) The means and timing of the take, and the rate of take;
- (d) The quantity of water required to meet the needs of the community;
- (e) The duration of the resource consent;
- (f) The information and monitoring requirements; and
- (g) The review of conditions of the resource consent.

**Note:** An application for resource consent under Rules 52 and 53 does not need to be notified.

#### **Explanation**

Rule 53 ensures security of community water supplies while allowing environmental effects to be addressed.

### **Rule 54. Hydroelectric generation**

For the hydro-electricity operations identified in Schedule 13 of this Plan:

- (i) The damming of water for hydroelectric power generation purposes; or
- (ii) The taking of water for hydroelectric power generation purposes; or
- (iii) The use of water for hydroelectric power generation purposes; or
- (iv) The discharge of water and trace contaminants to water for hydroelectric power generation purposes; or
- (v) The diversion of water for hydroelectric power generation purposes;

is a **controlled activity**.

In considering any resource consent for the damming, taking, use, discharge or diversion of water in terms of this rule, the Council will restrict the exercise of its control to the following matters:

- (a) Any adverse effect of continuing or discontinuing the damming, taking, use, discharge or diversion of water on:
  - i) Any natural or human use value identified in Policy 3.3.1, 3.3.2, and 3.3.3 of any affected water body, including the impoundment itself; or
  - ii) The water quality of the lake or river; or
  - iii) The amenity values of the lake or river; or
  - iv) Fish passage; or
  - v) Any existing lawfully established take, use, dam, discharge or diversion of water; or
  - vi) Public access to and along any lake or river, and present and future access to the water resource for the purpose of taking or using water or discharging contaminants or water to water; and
- (b) Any maximum or minimum level or flow of water, and the range, or rate of change, levels or flows of water; and
- (c) Any potential flooding, erosion, land instability, sedimentation or property damage resulting from the damming, diversion, taking, use, or discharging of water or from the discontinuation of the damming, diversion, taking, use or discharging of water; and
- (d) The management of the lake or river shores; and
- (e) Invasion by or proliferation of aquatic plants; and
- (f) Any restoration of exposed lake bed resulting from any reduction in authorised lake levels; 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; and

- (k) Any bond; and
- (l) Review of the conditions of the resource consent.

An application for resource consent under this rule does not need to be notified and does not need to be served on persons who may be adversely affected by the activity, provided that Council will serve the application on the Director General of Conservation if it considers the Director General may be adversely affected by the activity.

#### **Explanation**

Rule 54 relates to the re consenting of existing activities associated with lawfully authorised and established hydroelectric power generation schemes. This Rule recognises that certain dams identified in Schedule 13 have been lawfully established and operated responsibly for a number of years and the range of issues which require consideration by the Council is not as wide as for a new dam. It is not expected within the lifetime of this Plan that a new consent an existing hydroelectric generation scheme would be declined, therefore a controlled activity status is appropriate and it provides certainty for the applicant.

The Department of Conservation has particular functions involving the preservation and protection of freshwater fisheries and freshwater fish habitat. Furthermore, many of the existing hydro schemes listed in Schedule 13 are located on (in full or in part) or connected to, areas administered by the Department.

### **18.3.3 Restricted Discretionary Takes, Uses, and Diversions of Water**

#### **Rule 55. Take and use of surface water**

Unless permitted by Rules 39, 40, or 42, or controlled by Rules 52 or 53, the taking and use of surface water where:

- (i) The total volume of water allocated from the river is less than 20% of the mean annual low flow (MALF) of the river; or
- (ii) The applicant accepts a minimum flow based on 75% of the mean annual low flow (MALF) of the river;

is a **restricted discretionary** activity.

In considering any resource consent under this rule the council will restrict the exercise of its discretion to the following:

- (a) The amount of water to be taken;
- (b) The flow available in the source water body;
- (c) The current allocation from the source water body;
- (d) The minimum flow to be applied to the take, if required;
- (e) Any adverse effect on any existing lawful take of water, if consent is granted;
- (f) The instream values supported by the source water body and related waterbodies, and any potential adverse effect of the taking on those values, if consent is granted;
- (g) Any need to prevent fish and eel entering the intake;
- (h) The means and timing of the take, and the rate of take;
- (i) The quantity of water required for the intended use;
- (j) The duration of the resource consent;
- (k) The information and monitoring requirements; and
- (l) The review of conditions of the resource consent.

An application for resource consent under this Rule does not need to be notified.

For smaller streams with high instream values the location and rate of take and the seasonal timing of the take can be controlled by conditions on the consent as set out in the explanation to Policy 7.3.1.

#### **Rule 56. Other takes and uses of groundwater**

Unless permitted by Rules 44, 45, or 46, or controlled by Rule 52, the taking and use of groundwater is a **restricted discretionary activity**.

In considering any resource consent under this rule the council will restrict the exercise of its discretion to the following:

- (a) The amount of water to be taken;
- (b) The current allocation from the aquifer and the estimated annual yield;
- (c) Any adverse effect on any existing lawful take of water;
- (d) Whether a minimum water level needs to be applied to the take;
- (e) Any adverse effect on any connected surface water body;
- (f) Any adverse effect on the existing quality of groundwater in the aquifer;
- (g) The means and timing of the take, and the rate of take;
- (h) The quantity of water required for the intended use;
- (i) The duration of the resource consent;
- (j) The information and monitoring requirements; and
- (k) The review of conditions of the resource consent.

**Explanation**

Rule 55 minimises transaction costs for those who are prepared to accept minimum flows required under this Plan. Rule 56 ensures any other groundwater take is considered as a restricted discretionary activity so that any adverse effects can be addressed appropriately.

**18.3.4 Discretionary Takes, Uses, Diversions, and Damming of Water**

**Rule 57. Other takes and uses of surface water**

Unless provided for by Rules 39, 40, 42, 43, 49, 50 or 55, the taking and use of surface water is a **discretionary activity**.

**Rule 58. Other diversion activities**

Unless permitted by Rules 47, 48, 49, 51, or controlled by Rule 54, the diversion of water is a **discretionary activity**.

**Rule 59. Other damming activities**

The damming of water, unless permitted by Rule 50, controlled by Rule 54, or prohibited by Rule 62, is a **discretionary activity**.

**Explanation**

Rule 57 retains the discretion to address any adverse effects for those wanting a lower minimum flow than is set by the policies in the Plan. Rules 58 and 59 ensure any other damming or diversion is considered as a discretionary activity, including the waters covered by the Buller Conservation Order, so that any adverse effects can be addressed appropriately.

**Rule 60. Other hydroelectric activities**

Except as provided by Rule 54, each of the following activities is a **discretionary activity** and will be considered under the following rules:

- (a) The damming of water for hydroelectric power generation purposes
  - Rule 59;
- (b) The taking and use of water for hydroelectric power generation purposes
  - Rule 57;



- (c) The discharge of water and trace contaminants to water for hydroelectric power generation purposes
  - Rule 71;
- d) The diversion of water for hydroelectric generation purposes
  - Rule 58.

**Explanation**

New dams require full consideration to be given to all effects and therefore are full discretionary activities.

**Rule 61. Take and use of geothermal water**

The taking and use of geothermal water is a **discretionary activity**.

**18.3.5 Prohibited Takes, Uses, and Diversions of Water****Rule 62. Damming of the Ahaura Gorge**

The damming of the Ahaura Gorge is a **prohibited activity** for which no consent will be granted.

**Explanation**

Rule 62 reflects the requirements of the Grey River Water Conservation Order.