

Submission on Proposed Water Permits Plan Change (Plan Change 7) to the Regional Plan: Water for Otago

Clause 5 First Schedule, Resource Management Act 1991

To: Otago Regional Council
By e-mail policy@orc.govt.nz

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- We could not gain an advantage in trade competition through this submission.
- The specific provisions of the proposal that our submission relates to and the decisions we seek from the Council are detailed on the following pages.
- We wish to be heard in support of our submission.
- If others made a similar submission, we **will** consider presenting a joint case with them at the hearing.

Signature of submitter



Date: 4 May 2020

Submission on Plan Change 7 (PC7)

Banarach Farm Limited (the submitter) holds a water permit to take and use water from Boundary Creek. This expires in July 2027. Whilst the submitter does not have any water permits that could be directly affected by the provisions of PC7, from its experience with previous plan changes in Otago and Canterbury, are aware of precedent setting. This is of particular concern to the submitter given that Otago Regional Council is embarking on a process to review its entire water plan in the coming years. In this instance, the submitter is requesting outcomes that it considers are practical, and if carried forward into coming plan changes, it has some level of comfort with.

The submitter seeks the following decisions from the Otago Regional Council:

- 1.1 that the decisions sought in **Annexure A** to this submission be accepted;
and/or
- 1.2 alternative amendments to the provisions of PC7 to address the substance of the concerns raised in this submission; and
- 1.3 all consequential amendments required to address the concerns raised in this submission and ensure a coherent planning document.

ANNEXURE A – REASONS FOR SUBMISSION AND DECISIONS SOUGHT BY NORTH OTAGO IRRIGATION COMPANY LIMITED

(1) The specific provisions of Proposed Plan Change 7 (PC7) that the submission relates to are:		(2) Our submission is that:	(3) We seek the following decisions from the Otago Regional Council (Note: amendments sought to the text of PC7 are shown in tracked changes, with additions shown in <u>underline</u> and deletions shown in strikethrough).
Sub-section/ Point	Oppose/ support (in part or full)	Reasons	
Policy 10A.2.1	Oppose in full	<p>The submitter opposes this policy in full, but there are aspects of this policy that require noting.</p> <p>The first is clause (a) and the use of the term ‘valid permit’. There is no definition of what the council considered to be a valid permit and therefore, this requires an explanation.</p> <p>Secondly, clause (b) which seeks to prevent the increase of the irrigation area, and subsequently, the proposed rule framework further constrains this to the 2017-18 irrigation season. Increases in irrigation area often result from increases in water use efficiency. This does not promote, and in fact may deter, from making efficiency improvements to irrigation systems. In many cases, particularly where the irrigation area is a small increase, the effects of doing so are less than minor, and in fact, often positive.</p> <p>The third is clause (e) that requires a reduction in the volume of water allocated for abstraction. If the waterbody is not considered over allocated, then what is the rational for seeking a reduction in the volume of water allocated for abstraction? This is in interim plan change which is being used as a place holder to enable a more thorough plan change process to take place and set environmental flow and allocation regimes with the communities. This policy flies in the face of this and is pre-empting an outcome of over-allocation.</p>	<p>Amend Policy 10A.2.1 to read:</p> <p><u>Only consider granting applications that will replace deemed permits, or water permits to divert, take or use surface water (including groundwater considered as surface water under policy 6.4.1A (a), (b) and (c) of this Plan) where those water permits expire prior to 31 December 2025, except where:</u></p> <p><u>(a) it will replace a lawfully established divert, take or use affected by the provisions of Section 124-124C of the RMA; and</u></p> <p><u>(b) There is no increase in the instantaneous rate of abstraction; and</u></p> <p><u>(c) An appropriate residual flow, minimum flow or take cessation condition is applied to the new permit; and</u></p> <p><u>(d) An appropriate annual volume is proposed in accordance with Method 10A.4.</u></p>
Policy 10A.2.2 Policy 10A.2.3	Oppose in full	<p>These two policies appear to contradict each other. Our understanding is that PC7 only applies to replacement of deemed permits or water permits (including hydraulically connected groundwater) that expire prior to 31 December 2025. Therefore, a policy referring to “new” resource consents appears to be at odds with that.</p> <p>The policy directive also appears to be for a consent duration of six years unless you can meet the higher thresholds of a non-complying activity. Where an appropriate minimum flow, residual flow or take cessation condition has not already been worked out (either via existing resource consents or the current water plan), then this can be an expensive and lengthy exercise. A duration of six years would be at odds with this. This duration will also significantly impact a consent holders’ ability to maintain current finance or seek new finance for infrastructure upgrades.</p>	<p>Delete Policy 10A.2.2.</p> <p>Amend Policy 10A.2.3 to read:</p> <p><u>The setting and attainment of catchment specific water quantity outcomes and limits is enabled through:</u></p> <p>a. <u>limiting the duration of any resource consent granted under this Plan to a period not exceeding six years past the expected notification date of the plan change to the Regional Water Plan that will introduce new water quantity provisions; but</u></p> <p>b. <u>allowing, where appropriate, a longer resource consent duration for provided those permits include enable a review of the consent under section 128(1) of the RMA.</u></p>

Rule 10A.3.1	Oppose in full	<p>This is a controlled activity rule that requires the same level of information as would currently be required under the regional water plan, and is not aligned with the objective of this plan change which was to be a “narrow plan change that provides for relatively low cost, and fast issuing of consents on a short term basis as an interim measure until sustainable allocation rules are in place”. The rule also includes dams, discharges and re-takes, yet the policy and rule framework does not relate to these activities. Other matters such as consent duration and the limiting of the irrigation area have already been discussed in this submission but are specific to this rule as well.</p>	<p>Amend Rule 10A.3.1 to read:</p> <p><u>Any activity will replace a lawfully established divert, take or use affected by the provisions of Section 124-124C of the RMA where that water permit expires prior to 31 December 2025 is a controlled activity provided the following conditions are met:</u></p> <p><u>(i) The consent duration sought is no more than six years past the expected notification date of the plan change to the Regional Water Plan that will introduce new water quantity provisions; and</u> <u>(ii) There is no increase in the instantaneous rate of abstraction; and</u> <u>(iii) An appropriate residual flow, minimum flow or take cessation condition is applied to the new permit; and</u> <u>(iv) An appropriate annual volume is proposed in accordance with Method 10A.4; and</u> <u>(v) The area irrigated does not exceed that which was irrigated at 30 June 2018, or any increase in the irrigation area is limited to 20 hectares above that which was irrigated at 30 June 2018.</u></p> <p><u>The Council reserves control over the following matters:</u> <u>a. Whether the amount of water diverted, taken or used is reasonable for the intended use. In assessing reasonable use for irrigation purposes, the council will consider the matters set out in Method 10A.4; and</u> <u>b. If relevant, methods for preventing fish from entering the water intake; and</u> <u>c. The point and method of measurement and the method for transmitting recorded data to Council.</u></p> <p><u>Pursuant to sections 95A and 95B of the RMA, an application for resource consent under this rule will be processed and considered without public or limited notification. Limited notification to affected order holders in terms of section 95F of the RMA will be necessary, where relevant, under Section 95B(3) of the RMA.</u></p>
Rule 10A.3.2	Oppose in full	<p>There are only two pathways – controlled or non-complying. It is our view that where conditions of our amended Rule 10A.3.1 cannot be met, that an intermediary pathway should be created, and non-complying status removed as it is unnecessarily restrictive for an interim plan.</p>	<p>Include a new rule:</p> <p><u>Any activity will replace a lawfully established divert, take or use affected by the provisions of Section 124-124C of the RMA where that water permit expires prior to 31 December 2025 that does not meet conditions (ii), (iii), (iv) or (v) of Rule 10A.3.1 is a restricted discretionary activity.</u></p> <p><u>The exercise of discretion is restricted to the following matters:</u> <u>a. The actual or potential adverse effects on water quality; and</u> <u>b. The effects of the diversion, take or use on any other authorised diversion, take or use;</u> <u>c. The reduction in the rate of diversion, take or use at times of low flow.</u></p> <p>Amend Rule 10A.3.2 to read:</p>

			<p><u>Any activity will replace a lawfully established divert, take or use affected by the provisions of Section 124-124C of the RMA where that water permit expires prior to 31 December 2025 that does not meet condition (i) of Rule 10A.3.1 is a discretionary activity.</u></p>								
Method 10A.4	Oppose in full	<p>Method 10A.4 is fraught for the following reasons:</p> <ul style="list-style-type: none"> • It encourages those wanting to retain access to water in the future to take as much water as possible in the time leading up to the next plan change – use it or lose it mentality leads to inefficient water use, and more water diverted, taken or used than would otherwise potentially be. • The July 2012 to June 2017 is a very small period of time. • Fails to take into account seasonal demand and therefore variation in water diverted, taken or used. • Does not consider how much water is actually needed. • Investment in better irrigation infrastructure is disincentivised. • Forces a reduction in allocation for which there is no basis for at this point in time (environmental or otherwise). • While this may only be an interim plan, if accepted by the Council for PC7, it sets a precedence for the upcoming review of the entire water plan. • The method is not consistent with what other regional councils have implemented. <p>Our proposed method has three options:</p> <p>Option 1 is records of past use but moderated to meet demand conditions that occur in nine out of ten years.</p> <p>Option 2 allows for other field validated models to be used. An example of this is Irricalc.</p> <p>Option 3 is requiring knowledge of soil PAW on farm, as well as effective irrigation season rainfall. Soil information is readily available on S-Maps. Rainfall data can be obtained from any long-term climate station, or many farmers have daily rainfall records that can be used.</p>	<p>Amend Method 10A.4 to read:</p> <p><u>Three methods are provided for determining the seasonal irrigation demand.</u></p> <ol style="list-style-type: none"> 1. <u>Records of past use, moderated to ensure the annual volume is sufficient to meet demand conditions that occur in nine out of ten years for a system with an irrigation application efficiency of 80%; or</u> 2. <u>Use of a model that has been field validated and shown to reliably predict annual irrigation volume within an accuracy of 15%. The annual volume calculated using the model shall be compliant with the following criteria:</u> <ol style="list-style-type: none"> a. <u>an irrigation application efficiency of 80%;</u> b. <u>a system capacity to meet peak demand;</u> c. <u>a nominal irrigation season from 1 September to 30 April; and</u> d. <u>demand conditions that occur in nine out of ten years.</u> 3. <u>Using the methodology set out below and the figures set out in Table 10A.4.</u> <p><u>To determine the applicable seasonal irrigation demand standard and derive an annual volume:</u></p> <ol style="list-style-type: none"> 1. <u>find the total seasonal demand from Table 10A.4 for the particular soil PAW class. Where the soil PAW class is between 100 - 200 mm, insert the appropriate PAW for the soil to be irrigated into the formula to determine the total seasonal demand;</u> 2. <u>determine effective irrigation season rainfall for the location;</u> 3. <u>deduct this rainfall amount from the total seasonal demand amount to give the irrigation requirement in millimetres – this provides the seasonal irrigation demand standard;</u> 4. <u>adjust this seasonal irrigation demand standard by multiplying by 10 to find the volume of water (cubic metres) per hectare per season; and</u> 5. <u>multiply this amount by the area that is to be irrigated to give the annual volume.</u> <p><u>Table 10A.4</u></p> <table border="1" data-bbox="1375 1155 1906 1262"> <thead> <tr> <th><u>Soil PAW Class</u></th> <th><u>Total Seasonal Demand</u></th> </tr> </thead> <tbody> <tr> <td><u>< 100 mm</u></td> <td><u>910 mm</u></td> </tr> <tr> <td><u>100 – 200 mm</u></td> <td><u>910 -1.6(PAW-100) mm</u></td> </tr> <tr> <td><u>>200 mm</u></td> <td><u>750 mm</u></td> </tr> </tbody> </table> <p><u>Soil PAW Class represents the upper and lower limits of the soils that are generally irrigated in Otago in terms of the profile available water (PAW) of the soils. Between the upper and lower limits set out in Table 10A.4, a sliding scale is used to determine the relevant total seasonal demand.</u></p>	<u>Soil PAW Class</u>	<u>Total Seasonal Demand</u>	<u>< 100 mm</u>	<u>910 mm</u>	<u>100 – 200 mm</u>	<u>910 -1.6(PAW-100) mm</u>	<u>>200 mm</u>	<u>750 mm</u>
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			<p><u>Total seasonal demand</u> is the total amount of water required to satisfy plant water needs during the main growing period. This demand can be satisfied by rainfall and irrigation. In determining the irrigation component, provision has been made for:</p> <ol style="list-style-type: none"> 1. <u>an irrigation application efficiency of 80%;</u> 2. <u>a system capacity to meet peak demand (between 4mm/ha/day and 6.5 mm/ha/day);</u> 3. <u>a nominal irrigation season from 1 September to 30 April;</u> 4. <u>demand conditions that occur in nine out of ten years; and</u> <p><u>Effective irrigation season rainfall</u> is the amount of rain that will contribute to crop growth over the nominal irrigation season. In determining this amount, provision has been made for:</p> <ol style="list-style-type: none"> 1. <u>rainfall that occurs on average in six out of ten years (which, together with a complementary seasonal irrigation allowance, is estimated to meet total water demand with a reliability of nine out of ten years based on analysis of long-term climate data); and</u> 2. <u>excluding daily rainfall amounts of less than 5 mm, or cumulative rainfall amounts in consecutive days in excess of 50 mm.</u> <p><u>Seasonal irrigation demand standard</u> for a given soil PAW the depth of water (measured in millimetres) per hectare per year required to be supplied by irrigation to satisfy plant water demand after allowing for effective irrigation season rainfall.</p>
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