

Submission on Proposed Water Permits Plan Change (Plan Change 7)  
**to the Regional Plan: Water for Otago**  
(Form 5, Clause 6 of the First Schedule, Resource Management Act 1991)

**Form 5**

**Submission on publicly notified proposal for policy statement or plan**

Clause 6 of First Schedule, Resource Management Act 1991

To: Otago Regional Council  
policy@orc.govt.nz

Name of submitter: **RobinDicey**

Contact person: Robin Dicey

Address for service: [REDACTED]  
[REDACTED]

This is a submission on the following proposed plan change:  
Proposed Water Permits Plan Change (Plan Change 7) to the Regional Plan: Water for Otago.

We **could not** gain an advantage in trade competition through this submission.

I **am** directly affected by an effect of the plan change that

- (a) Adversely affects the environment; and
- (b) Does not relate to trade competition or the effects of trade competition.

The specific provisions of the proposal that our submission relates to and the decisions we seek are as detailed on the following pages.

We wish to be heard in support of our submission.

If others made a similar submission, I **will** consider presenting a joint case with them at a hearing.

*(Delete if you would not consider presenting a joint case)*

Signature of submitter: .....  
**2020**.....

Date: **2 May**

*(Or person authorised to sign on behalf of person making submission.)*

*Signature not required if you make your submission by electronic means)*

I am a vineyard owner in Bannockburn who relies on the Long Gully Race Society for irrigation.

I oppose Proposed Plan Change 7 (PPC7) **in its entirety.**

PPC7 is unnecessary. The existing Otago Regional Council plan allows deemed permits to be replaced in a way that does not result in the unsustainable allocation of freshwater.

The objectives and provisions of PPC7 are not an appropriate way, or the most appropriate way to give effect to, or achieve Part 2 of the RMA

PPC7 does not give effect to relevant planning instruments including

- National Policy Statement Freshwater Management.
- Otago Regional Council Regional Policy Statement

The Section 32 Evaluation of PPC7 is incomplete and incorrect. This has resulted in an evaluation which underplays the failures of PPC7 and overplays its effectiveness.

### **Adverse effects of PC7 and constantly shifting stance of ORC**

Long Gully Race Society has a deemed permit expiring in October 2021. In order to be proactive we lodged an application to replace this in June 2017. LGRS and its consultants spent considerable time and energy negotiating with affected parties to try and obtain affected party approval. While this took time and money, considerable progress was made, and LGRS agreed to mitigation measures and agreement was close to being reached. However in about 2018, the executive staff at Council changed their stance on the effectiveness of their own plan in giving effect to the NPSFM. Negotiations with Fish and Game Otago and Aukaha stalled. We are now due to go to hearing in June 2020 with Fish and Game and Aukaha, but note that the Department of Conservation has not submitted in opposition.

After the considerable time, money and energy invested in our application, with further investment required for our hearing, we are now in a position of uncertainty, as Regional Council staff recommend that permits applied for prior to the notification of PPC7 (as ours was) only be granted a short term. We are now faced with the risk of going to a hearing and still only obtaining a short-term permit, and then having to go back through a hearing process under the new Land and Water Regional Plan. This circumstance has not been created by us, yet we bear the cost, risk and uncertainty.

PPC7 is full of fish-hooks, as the Council has retained control over matters such as fish passage, fish screening, minimum flows and residual flows. It also seeks to reduce allocation on an arbitrary basis. This creates considerable risk for permit holders, and is not a fast, simple, cost effective interim planning framework. If an interim planning framework is to be made available, it should be simple, cheap (or free) and no-risk for permit holders. In addition, applicants who have in good faith applied under the existing legal framework should be considered under that framework without being disadvantaged by the application of PPC7.

**Objective 10A.1.1** This objective puts the replacement of permits on hold until a new Land and Water Regional Plan is developed. This is inappropriate, as the contents of that plan are not yet determined, and it means that proper assessment of applications will not occur under PPC7.

This approach creates considerable extra expense for permit holders, as they will have to apply for a replacement consent under PC7, plus another consent under the new LWRP.

#### **Policy 10A.2.2**

New consents to take water can only be for a term of 6 years. This makes no sense when the Clutha River is not considered to be 'fully allocated', and new takes from the Clutha can support a variety of developments which support economic and social well-being, but which have minimal environmental effects. This will make it difficult to impossible for some developments to proceed, as they will not be able to secure lending based on water permit for 6 years.

#### **Controlled Activity Rule – Rule 10A.3.1.1**

##### ***Six-year term***

The controlled activity in PPC7 only allows a term of 6 years on replacement permits. This term is far too short to provide any kind investment certainty for businesses. Grape-growing and wine production are important industries from both a local perspective – employment – as well a national point of view in terms of earning valuable foreign exchange.

PPC7 seeks to prevent the growth of irrigation area beyond what was irrigated in the 2017-18 irrigation season. No reason is provided for the use of this season. This is not linked to effects on the environment, and has the potential to adversely affect economic well-being. An example of how this potential limitation could impact on our industry is shown up as growers seek to make better use of their land by closer planting as old vineyards are replaced with narrower plantings. These new developments will have a greater number of vines per hectare and will require more water as the amount per vine will remain static. Limiting supply will lock growers into an outdated paradigm will no chance to enhance both

yield and quality: both of which would improve foreign earnings as well as providing more employment opportunities.

The application of the methodologies in Schedules 10A.4 will result in significant adverse effects on permit holders. These methods use an “average of maximums” approach, and excludes any data above an acceptable margin of error. This means that abstraction that did occur is treated at zero, and this data cannot be counted towards any calculation of rates or volumes taken. This will particularly affect volume calculations and will reduce the “average of maximums”, or the new maximum volume to be granted for replacement consents.

This is a completely arbitrary way of trying to reduce allocation and has no link to effects on waterways, and takes not account of effects on water users. As noted above, limitations would have considerable adverse effects on both production and quality outcomes

Long Gully Race Society put a lot of time and energy into the design and installation of our metering equipment. We carefully monitored and paid attention to the metering data. We are consented to take 55.6L/s. Despite our best efforts, our data record shows abstraction above the ‘acceptable margin of error’, with aberrations of over 100L/s being recorded. Our race does not have the capacity to take anything like this amount of water. These errors were likely to be caused by a heavy rainfall event or ice build up near the metering device. However, excluding this data altogether makes no sense – abstraction can still be occurring during periods when errors occur.

### ***Retaining control over Intake Method / Fish Screens***

Installation of fish screens can be expensive and may not always be appropriate. This is the case in Long Gully, where our race and ponds offer better habitat for trout than Long Gully itself. An assessment about this would add complexity to any application made under this rule, increasing the costs associated with it.

### ***Volume and rate of take***

This seems to provide the ORC with the ability to reduce allocation, including below actual historical use. This is not appropriate unless proper assessments, based on a rational methodology that is linked back to effects on the environment, are carried out. Such assessments are not appropriate when a term of only 6 years is available.

### ***Provision of fish passage***

It is not clear what this requires – whether abstractors have to make sure there is enough water downstream of their take, or past their intake structure, or both. An assessment about

this would add complexity to any application made under this rule, increasing the costs associated with it.

### **Non-complying activity rule**

This set high thresholds for obtaining a replacement consent and creates a real barrier to permit holders who do not neatly fit within the controlled activity rule. It will be expensive for permit holders to obtain consent via this pathway, even though permit holders might have valid reasons for not applying under the controlled activity rule e.g. because of issues with their data, or because efficiency upgrades mean they want a longer term than 6 years.

### **The Section 32 Evaluation**

The Section 32 Evaluation supporting PPC7 is incorrect and incomplete. It does not assess the impact of PPC7 on economic growth and employment, or on efficiency improvements. It also under values the costs of PPC7, and overstates the benefits.