

*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: **MFS Ventures Ltd**

Contact person: Greg Nelson, Director
Address for service: greg@mfsventures.co.nz
Postal: Whartons Rd, Maheno
Ph: 027 447 7615

*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 from Council 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: Date:

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

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

1. We oppose all of the Proposed Water Permits Plan Change Plan Change 7 (PC7).
2. We seek the following relief:
 - a. PC7 be declined in its entirety.
 - b. If PC7 is retained, then we seek that the Kakanui and Waianakarua catchments be specifically excluded from the ambit of PC7 and PC7 be amended to provide a truly simple roll-over of permits (through a permitted activity rule and no non-complying activity).
3. The reasons for our submissions are outlined below.
4. PC7 does not meet the necessary statutory tests:
 - i. PC7 fails to provide a coherent and complete framework for managing the taking, damming, discharging, diverting and re-taking of water in Otago.
 - ii. The objectives and provisions of PC7 are not an appropriate way, or the most appropriate way to give effect to, or achieve Part 2 of the RMA. PC7 will not result in sustainable management, as it does not safe-guard life-supporting capacity, allow for mitigation of effects and does not provide for economic and social wellbeing.
 - iii. PC7 fails to give effect to National Policy Statement Freshwater Management (NPSFM).
 - iv. PC7 fails to give effect to the various versions of the Regional Policy Statement (RPS).
 - v. PC7 is based on a flawed assessment of freshwater management in Otago and the Kakanui or Waianakarua catchments and the outcomes achieved or able to be achieved under existing planning provisions including the Otago Regional Plan: Water for Otago (Water Plan) and the NPSFM.
 - vi. The Section 32 Evaluation of PC7 is faulty and was not carried out in compliance with Section 32 of the Resource Management Act. The evaluation understates and underestimates the adverse economic and social costs of PC7, and also underestimates the direct environmental effects of PC7.

Our Farms

5. MFS Ventures owns properties in the Waianakarua and Kakanui catchments in North Otago. We have water permits from both the rivers and have some North Otago Irrigation Company shares on the Kakanui Catchment farm.

Water Management

6. Both the Kakanui and Waianakarua Rivers have minimum flows and allocation blocks.
7. In the mid 2000's the Kakanui water permits were all reviewed and the deemed permits that existed then significantly reduced.
8. The changes included the severe reduction on two irrigator's takes of 90L/sec each that traditionally operated together at 180L/sec (so that some border dyke irrigation could occur) down to 35-40L/sec each.
9. The water users of the Kakanui catchment had been flow sharing since the 1980's so were aware that it was difficult to allocate water to such a large take when the flows were low. More often than not those irrigators would forego their turn for the good of the rest of the group.
10. The Kakanui water users understand water allocation in the past and have accepted the reduction of allocation where it is justified in the past and or they understand sharing water. PC7 policies, rules and methodologies will penalise these irrigators and my business with no link to environmental effects.
11. The Waianakarua minimum flow plan change became operative in 2010. The existing water permits were reviewed by the ORC and the minimum flow condition was added as a result of this review some 10 years after the permits were replaced. It was a simple no fuss procedure.

PC7 in North Otago

12. Many Kakanui water permits expire in 2024 so they will be captured by Plan Change 7.
13. We could find no mention of the Kakanui or the Waianakarua in the Investigation of Freshwater Management and Allocation Functions at Otago Regional Council by Professor Skelton (Skelton Report).
14. The Skelton Report which led to the Minister Recommendation is focused on the Central Otago catchments only, and seemed concerned with the transition from deemed permits when they expire in 2021.
15. It looks like the ORC have accidently collected the North Otago water permits in a one size fits all approach. The ORC Section 32 report fails to consider the circumstances of the different catchments in Otago.

Planning pathways

16. PC7 does not provide a simple consenting pathway for permits expiring until 2025. The criteria of the controlled activity 10A3.1 such as: restricted area to 2017-18 and allocated water on schedule 10A.4 and 6 year term are nonsense.
17. The water allocated based on old data is unfair. The method will also penalise the Kakanui irrigators as they reduce their abstraction during low flow periods. Some years have been very dry and the water abstracted would be low however in a good year the river has a higher flow that can sustain abstraction above the minimum flow.
18. The river's health by way of the minimum flow comes first and the irrigator takes the risk the water may or may not be available for them to abstract. Taking away water that has been abstracted through averaging as described in Schedule 10A.4 is a random approach and not aligned to established practice across the rest of the country.
19. The six or even fifteen year term is also impossible. Keeping abreast of efficient methods and modern technology requires capital investment. Six years is completely unbankable and will see our businesses struggle to survive as we are still looking at upgrading our systems.
20. As the controlled activity is unpalatable the water users will be forced to use the non-complying pathway rule 10A3.2. That is a very high bar for existing compliant water consent holders to follow. If the ORC wants to roll over the permits so they can update their Plans then the permits should be replaced as is with no changes in North Otago.
21. Our first preference is for the Plan Change to be removed. It is not needed for North Otago. If ORC introduces new elements to their plan then permits can be updated by review clauses.
22. The ORC seem determined to push the costs of their delays in updating their plans to be consistent with the National Policy Statement for Freshwater on to irrigators by making them apply more regularly for water permits. If the ORC wants to ensure permits are consistent with the National Policy Statement then this should be done through review clauses at their own cost.
23. Any roll over of permits should be just that – a roll over through a permitted activity rule.

PC7 is not good planning.

24. PC7 seeks to limit irrigation area to an arbitrary season and reduce allocation but does not link these to any actual effects on the environment. It fails to protect our environment, as it no new minimum or residual flows will be required. It requires efficiency assessments but does not provide any guidance on what is considered efficient. It requires fish

screening and fish passage, which require significant scientific assessments, but does not link these factors to lack of instream flow that may occur without residual and minimum flows. PC7 is a 'grab-bag' of planning concepts that do not work together well to look after the environment or to enable good use of water and economic well-being.

25. PC7 creates significant cost and uncertainty for water users. This submission, and the further submission on the new Land and Water Regional Plan are all distractions and extra costs from the real gains that could be made right now under the existing water Plan.