



# Federated Farmers of New Zealand

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

4 May 2020



# **SUBMISSION ON PROPOSED PLAN CHANGE 7 (WATER PERMITS) TO THE REGIONAL PLAN: WATER FOR OTAGO**

Form 5

Submission on publicly notified proposal for policy statement or plan  
*Clause 6 of First Schedule, Resource Management Act 1991*

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

Federated Farmers could not gain an advantage in trade competition through this submission.

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

Federated Farmers wishes to be heard in support of this submission.

## **SUBMISSION ON PROPOSED PLAN CHANGE 7 (WATER PERMITS) TO THE REGIONAL PLAN: WATER FOR OTAGO**

### **1. SUMMARY**

- 1.1 Federated Farmers welcomes the opportunity to submit to the Otago Regional Council (ORC) on Proposed Plan Change 7 (Water Permits) to the Regional Plan: Water for Otago (PC7).
- 1.2 We note that this submission will be accepted and passed to the Environmental Protection Authority ('the EPA') who will subsequently re-notify the plan change. This renotification is the result of the ORC's request that the Minister for the Environment 'call-in' both PC7 and other proposed plan changes ("Plan Changes 1 and 8").
- 1.3 Federated Farmers will be submitting to both PC7 submission processes, and request that our submissions to both ORC and to the EPA be considered in their entirety.
- 1.4 The major points of our submission are as follows:
  - We do not consider the ORC PC7 proposals are an approach that most efficiently and effectively addresses the issues before Council, for the reasons expanded on within this submission.
  - We do not consider ORC's consultation on PC7 has been sufficient, particularly given the impact of proposals on affected water users and wider communities.
  - We do not consider the ORC PC7 is consistent with the commitments made to the Minister for the Environment on 16 December 2019, for reasons expanded upon below.
  - We do not consider ORC has met the obligations and expectations required under Section 32 of the Resource Management Act 1991 ('the RMA').
  - The objectives and policies within PC7 do not give effect to Part 2 of the RMA, nor does it give full effect to the National Policy Statement for Freshwater Management 2017.
  - PC7 is inconsistent with, and does not give effect to, the 3 existing or partially operative Regional Policy Statements in Otago.

**For reasons we cover in greater detail below, we oppose PC7 as proposed in its entirety.**

### **2. INTRODUCTION**

- 2.1 Federated Farmers of New Zealand (Inc) is a voluntary, primary sector organisation representing farming members and their families. Federated Farmers has a long history of representing the needs and interests of New Zealand's farming communities, primary producers, and agricultural exporters.
- 2.2 The Federation aims to add value to its members' farming business by ensuring that New Zealand provides an economic and social environment within which our members may operate their business in a fair and flexible commercial environment.
- 2.3 Our members strongly support a regional planning approach that recognises landowners play a principle role as managers of the regions natural and physical resources. They also support

planning processes that are truly effects based and do not unnecessarily inhibit or pose constraints on farming activities, while ensuring that any risks to the environment associated with farming are appropriately avoided or managed by landowners to minimise the adverse effects of their land use.

- 2.4 Landowners are in the whole, proactive resource managers who rely heavily on their properties natural and physical resources for their farming business. It is entirely in their best interest and subsequently that of the region to manage their land and water resources sustainably.
- 2.5 Council will be well aware that the Otago Region has an immense rural land area within its regional plan. This land area is hugely diverse in its geography, climate, soil types, land use, water use, water body type and land stability. It is very important that a regional planning framework provides the basis for each farmer to respond in a way that is appropriate for the receiving environment and their particular farming system.
- 2.6 Water allocation policy must be about the balance between competing demands. When water is allocated, the social, economic, and cultural values associated with particular water bodies must be balanced with each other and with environmental values, consistent with Part 2 of the RMA.
- 2.7 Federated Farmers considers Council must appropriately address a range of specific matters when determining its planned management regime for surface water and ground water. The rights of existing users must be allowed for, to ensure the protection of existing infrastructure and investment, and to safeguard productive capacity.

### **3. GENERAL COMMENTS**

3.1 Proposed Plan Change 7 has three main purposes:

1. To provide for the renewal of deemed permits which expire in 2021;
2. To provide for the renewal of other permits which expire before 31 December 2025; and
3. To impose a short consent duration (6 years) to the renewed permits to facilitate the implementation of the new Land and Water Regional Plan (to be notified in 2023) when it becomes operational (aiming for 2025) and the NPS-FM.

3.2 Federated Farmers has a number of specific concerns with the PC7 provisions. These include:

- The lack of distinction between deemed permits, granted under historic legislation, and specifically provided for in the in the RMA (sections 413 – 417), and permits granted under the RMA.
- The lack of acknowledgement that deemed permits relating to dams and irrigation infrastructure require distinct considerations, and that the PC7 framework does not work for these permits; These permits should continue to be addressed under the current Otago Water Plan framework.
- A lack of analysis and evaluation in the Section 32 Report of the methodologies for determining rates and volumes of take based on previous use, including appropriate assessment of whether those rates and volumes will provide sufficiently reliable water supply for effective and efficient irrigation.
- The limitation of irrigated land to that area which existed in the season of 2017/2018, when development may have taken place since then. ORC has failed to quantify the

number of landowners who undertook development since that period, or those who have plans for development and have been working through the replacement of permits and surety of water before commencing upgrades and expansion.

- The disconnect between the limit on irrigated area (2017/2018 season) and the determination of the average maximum rate of take and volume of take over the period 2012 – 2017; and
- The short consent duration for renewed permits.

- 3.3 With the introduction of the RMA, any current mining privilege and right granted under the Water and Soil Conservation Act 1967 was essentially deemed to carry on under the provisions of the Water and Soil Conservation Amendment Act 1971, as if it was not repealed, until the 30th anniversary of the RMA, and is known as a deemed permit.
- 3.4 Deemed permits are different in nature from the more modern RMA permits and should be dealt with separately. Unlike modern RMA permits, deemed permits were originally granted in perpetuity, were granted on a first come first served basis (meaning that some users have priority over others), did not have regard for the amount of water which could be allocated and did not have regard for the protection of stream flows and habitat.
- 3.5 The methodology proposed within PC7 determines rates and volumes of take on the basis of average maximum previous use over a specified period. This is extremely problematic because the reliance on averaging will significantly reduce the volume of water available in a given year. This will decrease reliability of supply and therefore decrease the ability of irrigators to use their water effectively and efficiently.
- 3.6 It has previously been found that, in an average year, about 65% of consented volume is typically used, where that volume is designed to provide 90% reliability<sup>1</sup>. Therefore, average annual volumes of water for irrigation are likely to be insufficient to provide reliable water supply for irrigation (reliability needs to be at least 90%).
- 3.7 As a further issue, under PC7 it is proposed that the allocation of water (rate and volume of take) be based on use over the period 2012 – 2017, whereas irrigated land area is determined by the area irrigated in the 2017/18 season. Therefore, the determined water use may well be outdated (and insufficient) compared with the 2017/18 irrigated area, and even more insufficient if irrigation development has occurred post-2017/18.
- 3.8 It is noted that the short consent duration for renewed permits was designed to facilitate the implementation of the new Land and Water Regional Plan (to be notified in 2023) when it becomes operational (aiming for 2025) and the NPS-FM. There is considerable uncertainty with this position, given the new LWRP has not been drafted yet, and its contents or positions also remain unknown and undetermined. Furthermore, there are significant down-sides to short consent durations, both economic and environmental, which will be expanded on further below.
- 3.9 Short consent durations create uncertainty and therefore reluctance or inability (if banks will not provide finance) to invest in improved technologies. This is likely to adversely affect both

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<sup>1</sup> Aqualinc Research Limited 2010: Update of Water Allocation Data and Estimate of Actual Water Use of Consented Takes 2009-10. Prepared for Ministry for the Environment. Report No. H10002/3 October 2010.

environmental and economic outcomes. These have not been sufficiently identified as 'risks' or 'costs' by ORC through the process.

### **The Section 32 Evaluation Report**

- 3.10 Section 32 (s32) of the Resource Management Act 1991 (RMA) is integral to ensuring transparent, robust decision-making on RMA plans and policy statements. Analysis must be clearly articulated and proportionate to the type of proposal.
- 3.11 The Ministry for the Environment has provided formal guidance to Councils in: *A guide to Section 32 of the Resource Management Act 1991 – Incorporating changes as a result of the Resource Legislation Amendment Act 2017*<sup>2</sup>. This reinforces that strong supporting evidence and a well-scoped and organised evaluation approach is critical to a good quality s32 evaluation.
- 3.12 A key requirement of a s32 Report is that the benefits and costs, and risks of new policies and rules, on the community, the economy and the environment be clearly identified and assessed. There must be a clear rationale for policy choices, and an actual quantification of costs and benefits is encouraged.
- 3.13 In our view, ORC has not met the clear expectations and requirements that fall upon it in this regard. Importantly, it has also not undertaken an adequate s32 evaluation of the alternative options available to it for PC7.
- 3.14 Section 32(1) sets out the expectations of what the evaluation report must examine and contain.
- 3.15 Section 32(2) requires any such examination under s32(1)(b) to identify and assess the benefits and costs of the environmental, economic, social, and cultural effects anticipated from the implementation of the provisions – including impacts on economic growth and employment. Where possible, this is intended to be quantified.
- 3.16 In the case of PC7, an appropriate level of examination and quantification sufficient to meet the requirements of s32(2) has not been done.
- 3.17 *Risk of acting or not acting (s32(2)(c))*: Where there is insufficient or uncertain information, s32(2)(c) specifies that there must be an assessment of the risks of acting, or not acting. While a programme of science is underway at ORC, given the time constraints around PC7, there isn't currently sufficient science, modelling or economic evaluation to state that either the science or economic impacts are understood with certainty. On that basis, we disagree with the comment at page 22 of the PC7 s32 report that "In this case, there is not considered to be any uncertain or insufficient information".
- 3.18 We also disagree with the PC7 s32 report's conclusion at page 22 that the risk of not acting is that water permits could be granted for longer durations thereby "inhibiting the ability for ORC to implement the new RPS and the LWRP in a timely manner". Sections 128 to 133A of the RMA set out circumstances and procedures for when consent conditions can be reviewed by

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<sup>2</sup> Ministry for the Environment. 2017. A guide to section 32 of the Resource Management Act: Incorporating changes as a result of the Resource Legislation Amendment Act 2017. Wellington: Ministry for the Environment.

consent authorities. These provisions and procedures exist irrespective of PC7 and have not been sufficiently recognised or reflected in the PC7 s32 report as part of the 'status quo'.

- 3.19 *Cost benefit analysis*: Page 21 of the PC7 s32 report commences an assessment of the environmental, economic, social, and cultural costs and benefits of provisions. Given the likely impact of restricted water use, the lack of investment certainty for mitigation and efficient use, and the short-term consents available, we are at a loss to see how ORC has concluded there will be no social costs. In our view, the clear costs associated with PC7 are impacts on employment opportunities, impacts on viable production and consequent services in the community, and risks to social cohesion where farmers and grower businesses are at risk.
- 3.20 At page 28 of the PC7 s32 report it is noted that "PC7 provides for the economic wellbeing of the deemed permit holders by providing a clear regulatory framework enabling the replacement of deemed permits in a consistent framework". To be clear, given the lack of assessment of the economic impact on rural communities, this is not how a water user would consider their 'economic wellbeing' to be met.
- 3.21 Water users needing a consent under PC7 will invariably need certainty around the ability to service financing and repay debts. Short-term consents will not provide sufficient certainty. By restricting the ability for permit holders to apply for increased areas of irrigation, PC7 both limits and restricts possible growth in the region in the next 6 years. Economic impacts on businesses flow on to employees and communities, and to the wider region and economy.
- 3.22 Given the above concerns, we disagree with ORC's conclusion at Table 6 that "*Overall PC7 is anticipated to ultimately result in significant environmental, social and cultural benefits for the Otago community through the efficient implementation of the new LWRP*".
- 3.23 Planning context: We do not agree with the PC7 s32 report conclusion that PC7 gives appropriate effect to the existing National Policy Statement for Freshwater Management, nor do we consider it better deals with considerations under Part 2 of the RMA than the existing Otago Water Plan. Unlike Policy 6.4.19 of the existing Water Plan, PC7 does not reward investment in environmental performance or improvements through providing for longer-term consents.
- 3.24 On assessing how well PC7 addresses the provisions of the three regional policy statements currently at play in the region, even the ORC's conclusion is that, on its own, it does not give effect to operative RPS provisions (see pages 33 to 36 of the Section 32 Report). Instead, PC7 takes a restrictive interim planning framework response, which fails to work towards achieving the long-term sustainable management of surface water resources in the Otago region. Given the lack of certainty and bankability, it is more likely to severely limit the ability of farmers and growers to secure sufficient finance or resources to undertake key activities now and develop environmental improvements into the future.
- 3.25 Put simply, PC7 locks in the status quo (or worse) for a further 6 years. This could well result in inferior environmental outcomes given the inability for farmers and growers impacted to consequently invest in environmental improvements, particularly those relating to water storage or more efficient irrigation.
- 3.26 In our view, PC7 doesn't provide sufficient flexibility in consent durations where impacts are minor, or no more than minor; nor does it provide for applications that provide significant financial or other positive effectives for applicants, employees of those applicants or wider communities.

- 3.27 As a result of all of the above, we oppose Council's conclusion that PC7 is "*the most appropriate way to achieve the proposed new objective of the Water Plan*". Other reasonably practicable options have not been adequately identified. Therefore, insufficient assessment of the efficiency and effectiveness of alternatives has been undertaken.
- 3.28 Overall, Federated Farmers has significant concerns with the quality and appropriateness of the PC7 s32 Evaluation Report. ORC has not sufficiently taken into account the risks and benefits to the region imposed by the PC7 provisions, nor has it appropriately assessed the risk of acting or not acting.
- 3.29 We believe that the duties of Council under the RMA, with regard to s32, have not been met. Therefore, we ask that the plan change be withdrawn, as drafted, in its entirety, and an appropriate redraft and reassessment under s32 be undertaken.

**PC7 is NOT consistent with ORC's commitments to the Minister for the Environment on 16 December 2019**

- 3.30 On 16 May 2019, the Minister for the Environment intervened in Otago planning matters through the initiation of a Section 24A Investigation into the Freshwater Management and Allocation Functions at ORC. The Minister's appointee was Honorary Professor Peter Skelton, and his report and recommendations<sup>3</sup> (the Skelton Report) were delivered to the Minister on 1 October 2019.
- 3.31 Professor Skelton's final report highlighted that an immediate issue facing ORC was the planning framework's ability to respond to the deemed permit expiries (1 October 2021). Professor Skelton recommended that the best way to deal with the rollover of deemed permits was to initiate the necessary legislative process to change the date for expiry of the deemed permits in section 413(3) of the RMA, from 1 October 2021 to 31 December 2025.
- 3.32 On 21 November 2019, Minister Parker released his Section 24A recommendations to Council in response to the Skelton report. As part of his recommendations, the Minister rejected Professor Skelton's recommendation to extend the date for deemed permit expiry, and instead recommended ORC go beyond deemed permits and place short-term consents on all water permits expiring before 31 December 2025.
- 3.33 The Minister made 3 further primary recommendations:
1. *take all necessary steps to develop a fit for purpose freshwater management planning regime that gives effect to the relevant national instruments and sets a coherent framework for assessing all water consent applications, including those that are to replace any deemed permits.*
  2. *develop and adopt a programme of work to achieve the following:*
    - a. *by November 2020, a complete review of the current RPS that is publicly notified, with the intention that it be made operative before the review of its LWRP is notified;*

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<sup>3</sup> Professor Peter Skelton *Investigation of Freshwater Management and Allocation Functions at Otago Regional Council* dated 1 October 2019 (Skelton Report).



*b. by 31 December 2023, a new LWRP for Otago is notified, that includes region-wide objectives, strategic policies, region-wide activity policies, and provisions for each of the Freshwater Management Units, covering all the catchments within the region.*

*3. prepare a plan change by 31 March 2020 that will provide an adequate interim planning and consenting framework to manage freshwater up until the time that the new discharge and allocation limits are set, in line with the requirements in the National Policy Statement for Freshwater Management.*

- 3.34 The Minister's report included recommendations for Council to consider and respond to, but significantly, all recommendations from the Minister were adopted by 'Council' carte blanche, seemingly without question or consideration of what this would mean for Otago's water users. In the consequent media release dated the same day, ORC Chairperson Marian Hobbs stated that "the Council accepts and welcomes the Ministerial direction".
- 3.35 In our view, ORC has not adequately interpreted the Minister's recommendations, particularly with regard to the scope and intent of PC7 – as required under the Minister's 3<sup>rd</sup> recommendation above. For instance, as acknowledged throughout the PC7 s32 report, PC7 does not fully give effect to the NPS-FM.
- 3.36 Furthermore, we consider PC7 goes further than the commitment made by Council, on 16 December 2019, to provide an adequate interim planning and consenting framework to manage freshwater up until the time that the new discharge and allocation limits are set, as recommended by the Minister.
- 3.37 PC7 through its interim framework reduces consent holders' water allocations without development or consideration of a sufficiently robust scientific basis and associated hydrological modelling. Through its limited two-tier activity status (either controlled or non-complying) it unfairly impacts on permit and consent holders and provides no reasonable flexibility for individual circumstances, the extent of supporting information provided or the fact applications will tend to be treated similarly irrespective of their likely impacts/benefits.
- 3.38 There are also issues with the dates contained within the plan change – that being the 2017-2018 (for irrigated land area), and 2012 – 2017 (for rate of take and for the volume of water taken). There will be a number of water users who will be prejudiced, including those who have expanded their operations, or undertaken steps to expand their operations, in the period after 2017/2018.
- 3.39 The fact that the plan is interim does not mean ORC should be able to rely upon insufficiently robust scientific evidence and modelling, or similarly inadequate evaluation of economic impacts.
- 3.40 There is nothing within either Minister Parker's recommendations, nor the Skelton report that suggested the Council should be unfairly restricting the water resource without first investing in the science and economic evaluations that should underpin the planning process and enable the Council to meet its requirements under the RMA.
- 3.41 Furthermore, the plan change goes well beyond the renewal of deemed permits expiring in 2021, and will impact a wide range of other water users where permits expire prior to 31 December 2025, including all new water permits, and that of hydraulically connected groundwater takes.

3.42 Overall, we do not consider it can be stated that PC7 provides an “adequate interim planning and consenting framework” given the large number of applications that will be pushed into non-complying consent categories.

### **Failure to consult**

3.43 Consultation is a key aspect of any RMA planning process and given the wide range of water users who will be impacted by the proposals, we do not consider expectations have been met in this regard.

3.44 On 21 November 2019, an ORC media release welcomed and accepted the Minister for the Environment’s recommendations, and it was stated that:

*“Chairperson Hobbs emphasises ORC’s strong commitment to working alongside the community.”*

*“Together, we have a lot of work ahead. It will be absolutely essential that we work with the community every step of the way.”*

3.45 Quite simply, as a result of the fast-tracked nature of this process, there has not been sufficient consultation on PC7 to satisfy either the RMA requirements, or to meet the standard Council set for itself when committing to the Minister’s recommendations. This is particularly so, given the subsequent request by Council to have the plan change ‘called-in’ by the Minister – taking it further out of local hands and placing it in the hands of a central government process.

3.46 We note the acknowledgement at page 8 of the Section 32 report, that:

*“Due to the requirements for PC7 to be developed and notified in a short timeframe and its narrow scope, consultation with key stakeholders and the community has been targeted. This section of the report describes the informal and formal consultation that has been undertaken prior to the notification of PC7.”*

3.47 At page 8 of the Section 32 report, it is noted that an online feedback survey was undertaken by Council. In our view, this was a short leading-question survey that did not provide for sufficient free-writing or any real challenging of positions. We do not support the ORC’s tendency to seek feedback in this way, because it is limited and pre-determines what answers will be received.

3.48 There is also reference to a public forum on 7 January 2020 that was taken to be part of the targeted ‘consultation’. We reiterate our understanding that those who attended the meeting were only allocated a strict 5 minute talking time and were not provided with any ability to ask or answer questions. It is noteworthy that farmers who attended this session travelled up to 3.5 hours each way and were extremely dissatisfied with what they considered to be “a farce of consultation”.

3.49 Furthermore, the focus group referenced at page 8 of the s32 report was based on ‘invitees only’ and the session was kept confidential. There was no opportunity for farmers to nominate which 2 water users attended to represent their interests.

3.50 In our view, consultation on this plan change has not been adequate to effectively gather community’s views or the impacts on the region from proposals, nor would it meet the expectations for a subsequent ‘call-in’ of the Plan Change. In our view, it will leave the

Environmental Protection Authority in a difficult position as it moves to determine how to progress the matter.

### **Insufficient consideration of compensation**

- 3.51 Section 414 of the RMA provides that, until the expiry date of a deemed permit (1 October 2021), the RMA requires decisions on any replacement resource consent to have regard to the previous deemed permit right. Plan changes that reduce a deemed permit right may only be instigated with the consent of the deemed permit holder. Where no such consent is given, the Council has no powers under s414 and can only utilise emergency powers under s329 (water storage direction)<sup>4</sup>.
- 3.52 To be clear, it is our understanding that no such permit holder consent has been given, nor compensation put on the table. We disagree with the conclusion at page 6 of the Section 32 report, where it is stated that:

*“Plan Change 7 does not infringe any existing ‘right’ to abstract water; what it does is establish a pathway for transiting from the deemed permit to a water permit, and restrict the water allocated under that replacement permit to a volume and rate of abstraction that has been used by the deemed permit holder”.*

- 3.53 As an example, PC7 has failed to take into the account the impacts for existing dams and resulting water users. A (maximum) 6 year controlled activity consent, or a 15 year non-complying activity consent, is completely unsuitable for infrastructure that tends to be designed for a 50+ year lifespan. As the result of a need to re-apply for subsequent permits, there will be significant consequent negative impacts on affected water users, and infrastructure owners.
- 3.53 In our view, given the inadequate flexibility, and the over-simplification of matters within PC7, the existing water plan provided a more reasonable and certain pathway for permit holders to transition from deemed permits, to RMA water permits, and this has not been appropriately assessed.

## **4. SPECIFIC COMMENT ON THE PROPOSED PLAN PROVISIONS**

### **Specific submissions**

- 4.1 As indicated above, and for the reasons we have expanded upon, the position of Federated Farmers is that **we oppose PC7 as drafted in its entirety**. We consider further work and consultation must be carried out on the plan change prior to the EPA re-notifying it.
- 4.2 We also consider the s32 evaluation report as drafted, to be inadequate and do not consider that it meets RMA requirements or the standards of consultation ORC set for itself.
- 4.3 However, if our submission is rejected, and if the plan change does proceed as notified, Federated Farmers’ submissions on specific provisions of Proposed Plan Change 7 are set out in the following section, along with reasoning and relief sought during any re-notification or subsequent decision-making process.

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<sup>4</sup> Minister of Conservation v Otago Regional Council EnvC C071/02

(1) The specific provisions my submission relates to are:	(2) My submission is that:		(3) I seek the following decisions:
	Oppose/Support	Reasons	
<b>Introduction</b>			
Introduction	Oppose	<p>Federated Farmers is opposed to the inclusion “of other permits expiring prior to 31 December 2025”. Deemed permits are different in nature from the more modern RMA permits and should be dealt with separately. Deemed permits relating to dams and irrigation infrastructure should also be treated distinctly from wider deemed permits, and this has not been appropriately recognised or acknowledged.</p> <p>Unlike modern RMA permits, deemed permits were originally granted in perpetuity, were granted on a first come first served basis (meaning that some users have priority over others), did not have regard for the amount of water which could be allocated and did not have regard for the protection of stream flows and habitat.</p> <p>We are opposed to the mandatory short consent duration. As discussed above, short consent durations create uncertainty and therefore reluctance or inability (if banks will not provide finance) to invest in improved technologies. This is likely to adversely affect both environmental and economic outcomes.</p>	<p>Delete bullet point 2.</p> <p>Delete paragraphs 3 and 4.</p>

(1) The specific provisions my submission relates to are:	(2) My submission is that:		(3) I seek the following decisions:
	Oppose/Support	Reasons	
<b>10A.1 Objective</b>			
Objective 10A.1.1	Oppose	<p>Federated Farmers supports the long-term sustainable management of surface water in Otago but does not consider PC7 as drafted achieves this objective. Nor is it appropriate to provide an objective within a plan that speculates about a future plan that has not even been drafted, yet alone proceeded through the RMA process. It is therefore vague and uncertain.</p> <p>We consider any redraft of the plan change should focus on the replacement of deemed permits, for the reasons discussed above. If the objective is to 'hold the line' until the new Otago Land and Water Plan is in place, there should be facilitation for the permits to roll over as is in the intervening period.</p> <p>The Otago Water Plan needs to be read in its entirety and as drafted, PC7 is inconsistent with Objective 6.3.2, which provides for the water needs of Otago's primary and secondary industries, and community water supplies.</p>	Reject the Objective as drafted.
<b>10A.2 Policies</b>			
Policy 10A.2.1	Oppose	The plan change was originally intended to focus solely on the replacement of deemed permits, but subsequently captured a number of other consents. We oppose the inclusion of other water permits which expire	We oppose Policy 10A.2.1.

(1) The specific provisions my submission relates to are:	(2) My submission is that:		(3) I seek the following decisions:
	Oppose/Support	Reasons	
		<p>prior to 31 December 2025 and we oppose the inclusion of deemed permits relating to dam and irrigation infrastructure.</p> <p>The policy is not an effects-based policy and is therefore inconsistent with the intent of the RMA. It does not appropriately consider aquatic values, economic or social wellbeings.</p> <p>Federated Farmers opposes Policy 10A.2.1(b) with regard to the use of the area under irrigation in the 2017/18 season as a limit on the area allowed to be under irrigation. Allowance must be made for recent irrigation development, or that underway currently.</p> <p>Federated Farmers opposes part (d) as this unreasonably creates inequity between water users and the contents do not apply to deemed permits.</p> <p>Federated Farmers is opposed to part (e) which requires that “There is a reduction in the volume of water allocated for abstraction”. This requirement should not apply to individual consents. Any requirement for reduction should take into account the current efficiency of water use. This generalised, blanket requirement is unnecessary and penalises those who have used water most efficiently.</p>	

(1) The specific provisions my submission relates to are:	(2) My submission is that:		(3) I seek the following decisions:
	Oppose/Support	Reasons	
		The exceptions in (b) to (e) do not appear to have been drafted with dam and discharge deemed permits in mind.	
Policy 10A.2.2	Oppose	<p>Federated Farmers opposes the requirement that consents should be renewed for a duration of no greater than 6 years.</p> <p>Short consent durations create uncertainty and therefore reluctance or inability (if banks will not provide finance) to invest in improved technologies. This is likely to adversely affect both environmental and economic outcomes. This is particularly so in regard to dams and irrigation infrastructure.</p> <p>For reasons discussed elsewhere in this submission we consider Policy 10A.2.2 should be deleted.</p>	<p>Delete Policy 10A.2.2 as drafted.</p> <p>Concerns can be met through the imposition of a specific 'review clause' to apply by 31 December 2025 or thereafter, on any new water permit to address the relevant provisions of the new operative Land and Water Regional Plan.</p>
Policy 10A.2.3	Oppose	<p>Federated Farmers opposes the restriction to consent duration of no greater than six years for the reasons given under Policy 10A.2.2 above. There is also no logic as to the difference of treatment between new water permits (which appear to be dealt with under Policy 10A.2.2) and replacement permits under this policy.</p> <p>No rationale has been provided as to why replacement permits with no more than minor adverse effects still have to satisfy this high onus of proof through a costly</p>	Delete Policy 10A.2.3 as drafted.

(1) The specific provisions my submission relates to are:	(2) My submission is that:		(3) I seek the following decisions:
	Oppose/Support	Reasons	
		<p>non-complying activity framework. It is an inefficient and ineffective policy.</p> <p>Our initial appraisal indicates few would satisfactorily be able to meet these requirements.</p>	
<b>10A.3 Rules</b>			
Rule 10A.3.1.1	Oppose in part	<p>Federated Farmers supports the use of controlled activity status for this rule to provide certainty of renewal provided the conditions are met, however we oppose the rule as drafted and consider it disproportionately onerous and expensive to satisfy.</p> <p>Federated Farmers opposes the extensive requirements expected around supporting and technical information (e.g such as that relating to fish passage), required to meet these conditions. It is neither simple nor cost-effective and puts disproportionate onus on the applicant, in a way not intended for controlled activities. We oppose such onerous requirements for a supposedly 'simple interim consent'. This does not meet the Minister's recommendations for a relatively low cost, fast issuing of consents.</p> <p>We oppose condition (i) where "consent duration sought is no more than six years", as this can be addressed through the adoption of a specific PC7 review clause to</p>	<p>We seek to:</p> <ul style="list-style-type: none"> <li>• Delete Rule 10A.3.1.1(b)</li> <li>• Delete (i)</li> <li>• delete (iii) reference to land area under irrigation</li> <li>• amend (iv) to include the rate of take as being the rate taken under the exercise of the current or existing resource consent up to and not exceeding the existing authorised rate of take, and remove reference to the method outlined in Schedule 10A.4,</li> <li>• delete (v) for reasons highlighted above; and</li> <li>• remove reference within (vi) to the daily, monthly and annual limit of take as being that taken under the exercise of the current or existing resource consent with allowance for climatic variability and seasonal extremes, up to and not exceeding the existing authorised daily, monthly and annual limit of take, and</li> </ul>



(1) The specific provisions my submission relates to are:	(2) My submission is that:		(3) I seek the following decisions:
	Oppose/Support	Reasons	
		<p>apply by 31 December 2025 or thereafter. We are opposed to a mandatory short consent duration.</p> <p>We are opposed to condition (iii) because allowance must be made for irrigation development which has taken place after the 2017/18 season.</p> <p>We are opposed to conditions (iv) and (vi) because we oppose the methodology for determining rates of take and volume limits. Rates and volumes of take determined on the basis of previous use are problematic because they depend on climate, especially rainfall, during the period over which previous use is assessed. It has been found that, in an average year, about 65% of consented volume is used, where that volume is designed to provide 90% reliability<sup>5</sup>. Therefore, average annual volumes of water for irrigation are likely to be insufficient to provide reliable water supply for irrigation (reliability needs to be at least 90%).</p> <p>Federated Farmers supports the proposal that applications for resource consent under this rule will be considered without public or limited notification.</p>	<p>remove reference to the method outlined in Schedule 10A.4.</p> <p>Delete and redraft the matters Council reserves control over – they are currently too onerous and expensive given the intent of the rule.</p>

<sup>5</sup> Aqualinc Research Limited 2010: Update of Water Allocation Data and Estimate of Actual Water Use of Consented Takes 2009-10. Prepared for Ministry for the Environment. Report No. H10002/3 October 2010.

(1) The specific provisions my submission relates to are:	(2) My submission is that:		(3) I seek the following decisions:
	Oppose/Support	Reasons	
Rule 10A.3.2	Oppose	<p>Federated Farmers opposes the non-complying activity status of this rule. It is unnecessarily restrictive and not an appropriate use of the non-complying activity status.</p> <p>This rule provides an alternative consenting path where it can be demonstrated that longer consent duration is appropriate. This rule should provide a genuine alternative consenting option.</p> <p>A discretionary activity pathway is appropriate as it can provide for a well-balanced and evidence-based application such that applicants can, where appropriate, justify and show the need for 25-35 year permits.</p>	Change activity status to restricted discretionary – given matters of discretion can be extensive.
Rule 10A.3.2.1	Oppose in part	<p>Federated Farmers asks that this plan change should focus solely on the replacement of deemed permits, for the reasons discussed above. Therefore, we oppose the inclusion of other water permits which expire prior to 31 December 2025. Therefore, we request the deletion of part b).</p> <p>For the reasons given above, Federated Farmers opposes the non-complying activity status of this rule. We request that the activity status be amended to restricted discretionary.</p>	<p>Delete part b).</p> <p>Change activity status to restricted discretionary.</p>

(1) The specific provisions my submission relates to are:	(2) My submission is that:		(3) I seek the following decisions:
	Oppose/Support	Reasons	
<b>10A.4 Schedule</b>			
10A.4 Schedule: Methodology for calculating assessed actual usage for surface-water takes for irrigation purposes	Oppose	<p>Federated Farmers opposes the Methodology contained in Schedule 10A.4 and considers it flawed and unlikely to meet the PC7 objective. In particular it forces a reduction in allocation irrespective of actual water need or efficiency of application.</p> <p>Federated Farmers opposes the use of previous rates and volumes of take as a basis for water allocation.</p> <p>Rates and volumes of take determined on the basis of average maximum previous use are problematic because they depend on climate, especially rainfall, during the period over which previous use is assessed, and mean that water allocated will be inappropriately restricted as a result of the 'averaging' approach.</p> <p>It has been found that, in an average year, about 65% of consented volume is used, where that volume is designed to provide 90% reliability<sup>6</sup>. Therefore, average annual volumes of water for irrigation are likely to be insufficient to provide reliable water supply for irrigation (reliability needs to be at least 90%). It also penalises those water users who have been the most efficient with their water use, and those with high variability in seasonal demand for irrigation. By taking a blanket</p>	<p>Federated Farmers opposes Schedule 10.4 Schedule and its Methodologies.</p> <p>Federated Farmers supports the approach taken in Schedule 10 of the Canterbury Land and Water Regional Plan, which has been well tested both by irrigators and through hearing processes. It uses soil type and effective irrigation season rainfall to determine the volume of water needed to meet demand in 9 out of 10 seasons.</p> <p>Federated Farmers also supports the approach highlighted within the submission and evidence of the Otago Water Resources User Group in regard to the Schedule and its methodologies.</p>

<sup>6</sup> Aqualinc Research Limited 2010: Update of Water Allocation Data and Estimate of Actual Water Use of Consented Takes 2009-10. Prepared for Ministry for the Environment. Report No. H10002/3 October 2010.

(1) The specific provisions my submission relates to are:	(2) My submission is that:		(3) I seek the following decisions:
	Oppose/Support	Reasons	
		<p>approach, PC7 fails to reflect the wide range of water uses within the region.</p> <p>We oppose the limitation of irrigated area to that area irrigated in the 2017/18 season. This doesn't provide for those water users who subsequently intensified or further developed their area under irrigation, or who have plans/processes underway to gain consents, financing or to develop infrastructure.</p> <p>An alternative approach would be to look to what's been tried and tested in similar regions. Federated Farmers supports the methodologies in Schedule 10 of the Canterbury Land and Water Regional Plan, which determines the annual volume needed to provide a specified reliability of supply for specific sets of circumstances (soil and climate) to be a better approach. For Otago, an approach similar to that in Method 2 of that schedule, using a daily water balance modelling approach could be adopted to determine reasonable use of water for irrigation purposes within Otago.</p> <p>Federated Farmers also supports the submission and recommendations of the Otago Water Resource Users Group in this regard.</p>	
Methodologies	Oppose	Federated Farmers considers the methodologies in Schedule 10 of the Canterbury Land and Water Regional	Federated Farmers supports the approach taken in Schedule 10 of the Canterbury Land and Water Regional

(1) The specific provisions my submission relates to are:	(2) My submission is that:		(3) I seek the following decisions:
	Oppose/Support	Reasons	
10A.4.1, 10A.4.2, 10A.4.3, and 10A.4.4		<p>Plan, which determines the annual volume needed to provide a specified reliability of supply for specific sets of circumstances (soil and climate) may be a suitable approach for Otago. For Otago, an approach similar to that within Method 2 of that schedule, using a daily water balance modelling approach could be adopted to determine reasonable use of water for irrigation purposes within Otago.</p> <p>Federated Farmers also supports the recommendations of the Otago Water Resource Users Group as contained within that submission, in regard to the Schedule and its methodologies.</p>	<p>Plan, which has been well tested both by irrigators and through hearing processes. It uses soil type and effective irrigation season rainfall to determine the volume of water needed to meet demand in 9 out of 10 seasons.</p> <p>Federated Farmers also supports the approach highlighted within the submission and evidence of the Otago Water Resources User Group in regard to the Schedule and its methodologies.</p>

## Conclusion

Federated Farmers thanks Otago Regional Council for the opportunity to submit on Proposed Plan Change 7 (Water Permits) to the Regional Plan: Water for Otago. We look forward to ongoing dialogue about Plan Change 7 and continuing to work constructively with Council and the Environmental Protection Authority.

Simon Davies  
 President  
 Otago Province  
 Federated Farmers of New Zealand