Otago Regional Council

SUBMISSION FORM – Proposed Plan Change 7(Water Permits) to the Regional Plan: Water for Otago

Form 5, Clause 6 of Schedule 1, Resource Management Act 1991

Office use only

Full name of submitter: DAVID JOHN SHEPHERD

Name of organisation *(if applicable)*:

Email: [redacted]

Postal Address *(or alternative method of contact)*: [redacted]

Telephone: [redacted]

(I wish) do not wish *(circle preference)* to be heard in support of my further 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)

Trade competitor's declaration *(if applicable)*
I could / could not *(circle one)* gain an advantage in trade competition from this submission.

I am / am not *(circle one)* 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.

Signature of submitter: D J Shepherd Date: 3 May 2020
(Or person authorised to sign on behalf of person making submission.
Signature not required if you make your submission by electronic means)

Please note that all submissions are made available for public inspection.

State what your submission relates to and if you support, oppose, or want it amended:
(e.g. support rule 'x', or amend policy 'y')

Oppose Draft Policy Clause 10A.2.1 (b)
Request it be deleted

Submission on Otago Regional Council Proposed Plan Change 7 (Water Permits).

My name is David J Shepherd and I live in Wanaka.

Background:

B AGR Sc: 50 yr career associated with Agriculture and in depth involvement with irrigation,

Rural Banking, Rural Valuation, over 40 years practical farming, holder of a deemed permit,

3 terms as Regional Councillor and qualified RMA commissioner.

Objectives

I have read the Proposed Plan document and understand the Objectives set out in the Draft are an interim framework to manage new water permits and the replacement of deemed permits to take and use water.

Policies

I do have significant concerns over Policy 10A.2.1 (b) which states that a currently valid deemed permit that has historically been used for irrigation cannot be replaced, despite no change in abstraction volumes, if the applicant wishes to expand the area to be irrigated.

I believe this smacks of overbearing bureaucracy that will stifle the development of new crops, super-efficient irrigation techniques targeted specifically to soil type or crop and inhibit a move to currently unimagined opportunities.

Given that deemed permit holders are now required to measure the volume of abstraction to ensure their takes meet that allowed under the current permitted deemed permit obligations and the data has to be passed on to the Consenting Authority I submit there is no case for such high handed direction.

While I acknowledge there are real difficulties measuring and providing audited data for many historical takes, to those deemed permit holders who have been tardy in meeting their obligations to provide the necessary data to the Consent authority and knowing full well 2021 was fast approaching I can only say ‘more fool are they’.

On the other hand there have been a large number of deemed permit holders who have spent weeks, months and years working collectively, consulting with the Otago Regional Council, various Government and non-government agencies and other interested groups and individuals to weld together collective agreements to allow a transition to water abstraction Consents post October 2021

They have come to these agreements with environmental, societal, farming and rural business viability at the forefront of their minds and to now see that work undone by this proposed policy position would be a gross travesty of natural justice.

The Regional Council has the abstraction data that they should use for consenting rather than moving into the realm of deciding what area is to be irrigated. A policy position which I contend is well beyond the expertise of the writers of this draft policy.

I therefore submit that Policy 10A.2.1 (b) is not required for the reasons outlined above and that it be deleted from the policy and that any rules contingent upon the draft policy clause are adjusted accordingly.

Section 32 evaluation report

The Section 32 report highlights to me where this Proposed Plan Change falls short in a number of areas and does not meet a number of the obligations it is supposed to be cognisant of as part of its preparation under the RMA.

For example under Deemed Permits it provides a pocket history of what they are and goes on to state,

"until the expiry date of the permit the RMA requires decisions on any replacement resource consent to have regard to the previous deemed permit right. Prior to the expiry of the deemed permit any plan change which would have the effect of reducing a deemed permit water right may only be instigated with the consent of the permit holder."

Further to that "Permit holders who consider their right has been infringed by the Council can seek compensation up until the expiry date."

The real kicker is in the next sentence where the report states.

"Plan Change 7 does not infringe on any existing rights".

Existing rights do not expire until October 2021 so how can this Plan Change which is being rushed through, include a policy that dictates irrigable area without consent of the permit holders and be operative prior to October 2021?

Consultation

The section 32 report states because of short time frames Consultation has been targeted and I note the survey during November /December 2019 and the public forum in January which included individual farmers, Government agencies and NGOs.

I also note that on 16 January 2020 a focus group was held in Lawrence attended by only two water users, runanga and environmental groups, an RMA consultant and ORC consent and policy staff.

Why Lawrence was chosen as a venue to hold such a meeting has me baffled. Lawrence was a goldmining area but as a representative district, where I'm sure deemed permit water users are few and far between, it cannot compare with Ranfurly, Alexandra and the Upper Clutha where the forums should have taken place.

I interpret from the section 32 report, this is the last time that key stakeholder water users, as part of a wide interest group forum were able to have input prior to the notification draft.

It is my contention that the consultation process through to pre notification has overlooked, or worse, chosen to ignore input with a key interest group and therefore the consultation lacks rigor and equity.

This grave error of judgement has failed to access a wealth of local knowledge available from, in many instances the great grandsons and great grand-daughters of the pioneering families who brought irrigation to many drought prone Central Otago communities. Those pioneers moved from mining to agriculture and had the "smarts" to build storage dams on

the often summer dry tributaries of the main rivers to ensure water for stock and pasture land was available when most needed.

The environment was the teacher of what to do and not to do and that knowledge still applies to those subsequent generations running farming businesses today.

Irrigation helped to build the communities, small towns and outdoor playgrounds and sites of interest that many domestic and international visitors flock to visit every year. It facilitated land use changes to vineyards, orchards with a growing array of different fruit varieties and venues for summer and winter outdoor pursuits.

It saddens me that the misguided wider societal view that land irrigation is “bad” and has to be curbed regardless of cost, now seems to pervade RMA planning thinking.

Unfortunately the Section 32 report, that I believe needs to be balanced in its analysis, has an undertone that seeks to curb irrigation in the long and medium term without robust analysis of the costs and benefits to the local community in particular and wider society in general.

The RMA true to its core principle is an effects based Law.

Plans under which consents are granted need to provide certainty to consent holders when investment has been made in irrigation infrastructure and provide realistic terms for them to achieve a return on the capital expended.

If over the current term of a consent all consenting requirements have been met in full then renewals should not be fraught and incur unnecessary costs that fall on compliant consent holders.

Therefore it is important that the short term consents proposed in this Plan Change don’t set the standard for consents under a new Land and Water plan in the future.

With this proposed Plan Change (7) I feel a certain irony arising at the expectation placed on the rural sector to help New Zealand as a country from the mire it is currently in (ie Covid19) and lead the way to what can be a new beginning for the economy.

Disenfranchising certain stakeholders cannot not lead to a sustainable collectively achieved plan that strives to meet the end goal

Therefore I hope the EPA will listen carefully to those individuals and groups with “skin in the game” and tap their knowledge of the environment, the businesses they live for and manage under one of New Zealand’s harshest climates.

David Shepherd

3 May 2020