

**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

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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)

Submission

1. The Strath Taieri Irrigation Company (STIC) and Trustpower **oppose all of Plan Change 7**. STIC want the Plan Change to be declined. PC7 will undermine and stall any environmental and economic gains or opportunities for the Upper and Strath Taieri regions for at least the next decade.
2. STIC are particularly opposed to the methodologies in Schedule 10A.4

Reasons

PC7 does not meet statutory requirements for plan changes

1. 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 fail to safe-guard life-supporting capacity, does not allow for mitigation of effects and will result in adverse effects on economic and social wellbeing.
 - iii. PC7 fails to give effect to National Policy Statement Freshwater Management.
 - iv. PC7 fails to give effect to the various versions of the Regional Policy Statement.
 - v. PC7 is based on an incorrect assessment of freshwater management in Otago and the Taieri catchment and the outcomes achieved or able to be achieved under the RPW.
 - vi. The Section 32 Evaluation of PC7 is incomplete and incorrect. This has resulted in an evaluation which underplays the failures of PC7 and overplays its effectiveness.

Strath Taieri community resilience project

2. The Strath Taieri Irrigation Company and Trustpower Ltd with the assistance of Central Government have been collaborating for several years now to develop a project for the summer dry Strath Taieri Catchment. After completing the pre-feasibility phase, the project was lodged with the Provincial Growth Partnership in 2019 with the support of the Otago Region's economic development governance group. STIC were advised that the project aligns with the economic development aspirations of the Otago Region and all regional development mechanisms.
3. The project aims to provide summer drought proofing in the current and future farming systems while also enhancing the Taieri River summer flows and wider catchment's environment. The project will strengthen the recreational, economic and social potential of the community and create an alternative future whilst building resilience against the effects of climate change. It involves diverting high flow water in the headwaters to the existing Loganburn dam and using the Taieri River to deliver that water down 40km of the Taieri River to the Strath Taieri during summer.
4. The project was aimed to coincide with the replacement of the deemed permits and presented a collective community strategy in replacing the water permits. It would increase surety of supply by delivering stored water via the Taieri River through the dry summer period when leaving the minimum and residual flows in the creeks and river becomes paramount. The project requires several consents to be obtained to proceed. We had aimed for the project to be consent ready 6 months. This means that PC7 will directly affect our ability to obtain consents and complete the project.
5. We have completed studies on the project's environmental impacts in terms of land use and the taking of water. Existing ORC rules and water user supply agreements would mean that dairying would not be possible with the water. The Project represents an opportunity for landowners to diversity into alternative food and fibre production. Some of the potential shareholders are already researching and trialling horticulture options.
6. There is no dairying in the Strath Taieri although the Report produced by Professor Skelton, Investigation of Freshwater Management and Allocation Functions at Otago Regional Council (Skelton Report) pointed to the 76 deemed permits in the Taieri being linked to 74 dairy farms. See page 14 and 15 of the Skelton Report *Appendix 1*.
7. There is no way the STIC project is possible with 6 or even 15 year permits. The funding providers would not entertain supporting the project on short term permits.
8. The environmental work completed so far demonstrates the project can go ahead without any water quality impacts of land use.
9. PC7's limitation of irrigation area (to the 2017/18 season) would also mean the project would no longer be viable, as some expansion is necessary to make the STIC project affordable, and to maximise efficiency of use of this water. Expansion of irrigated area would require non-complying activity applications for the project. The high thresholds applied to non-complying

activities would create a significant barrier to the project and is not justified given the positive environmental effects that will result from the project.

10. An expansion in hydro generation, increased instream habitat along 40km of the Taieri River during the dry summers and improved surety of supply for irrigation will all be lost in the brush stroke of PC7 without fair and appropriate consideration for the region.
11. The loss of this opportunity will result in lost opportunity for economic growth and employment opportunities. This is not recognised at all in the Section 32 Evaluation of PC7, even though the STIC project is known to the ORC. This highlights the lack of consideration given by the ORC to the impacts of PC7 on particular catchments. We do not accept or agree with the Section 32 Evaluation of PC7.
12. PC7 has included all of the catchments in Otago regardless of effects, water use history, large storage, operative minimum flows or community progress towards catchment management groups.
13. The encouragement by the ORC over recent years has been for communities to work together to come up with solutions. The Taieri as a whole is just about there. We share water at low flows to achieve minimum flows, nearly all the permits are replaced or lodged for replacement. Residual flows and ongoing collaboration are proposed in the applications. The ORC has neglected all of that in PC7. Waterlines article by the ORC in *Appendix 2* summarises the ORC's pleasure at the water sharing and responsible approach by the majority of the irrigators during low flows back in the Autumn of 2015.

Water permit replacement

14. The applications for the remaining water permits for irrigation in the Strath Taieri catchment are lodged or nearly lodged. The ORC has actively requested applications be lodged early for many years. *See Appendix 3, ORC Waterlines Summer 2017*, in which ORC recommends November 2020 as the absolute latest for lodging applications (p2). PC7 won't be operative by that date. During 2016 and 2017 the ORC invested a lot of education time in telling irrigators to get into groups and start the permit application process. They advised applicants to meet with affected parties, to gather information and to negotiate affected party approval.
15. As promoted by the ORC all the irrigators in the Strath Taieri have joined together into a Water Management Group and have either lodged, or joined the group application on lodging their individual application, so that all Strath Taieri applications could be processed together.
16. The applications are comprehensive. They include instream ecology and hydrology surveys and reports, efficiency assessments, proposed residual flows and freshwater species habitat protection. Paper allocation will dramatically reduce under the methodologies already used by the ORC to assess water takes under the current water plan.

17. The ORC consents team have a standard approach to assessing water take data and applying efficiency assessments as guided by the Aqualinc Report, *Guidelines for Reasonable Irrigation Water Requirements in the Otago Region prepared by Aqualinc Ltd.* (Aqualinc Report). Appendix 4 is a copy of the front page.
18. The Aqualinc report is used to apply existing Policy 6.4.0A of the Regional Plan: Water for Otago:

6.4.0A To ensure that the quantity of water granted to take is no more than that required for the purpose of use taking into account:

- (a) How local climate, soil, crop or pasture type and water availability affect the quantity of water required; and**
- (b) The efficiency of the proposed water transport, storage and application system.**

Applicants must supply soil maps, climate data and details about the crops or pasture they are growing. These are all logical assessments towards the goal of efficient use. The consent team also scrutinise the take data but are able to make adjustments for any data that has errors, or for seasonal extremes (existing Policy 6.4.2A). Compared to Schedule 10A.4 in PC7 the current methodologies used are completely appropriate and logical. PC7 methodology is a nonsense proposal and a backwards step for Otago.

19. The applications from the Strath Taieri Water Users have applied the current methodologies as is stipulated in the ORC Form 4 (before it was modified mid April to include PC7 as well), Application to Take and Use Surface water. Their applications are very large and required a huge body of work to complete.
20. In good faith the Strath Taieri Water users have done that work and lodged their permits. The group application had to be lodged by early 2020 because there were some water permits that expired before the end of 2020.
21. The bulk of the permits to be replaced in the Strath Taieri are located on the tributaries of the Taieri River. Due to the success of trout in the Taieri River the native galaxiid species have mostly been predated close to extinction. The only remaining habitat that is trout free where we have chance of finding the non-migratory galaxiids is in the tributaries. These are incredibly important locations. We have invested considerable time engaging with the Department of Conservation to understand how we can best protect these remaining habitats.
22. PC7 makes no allowances for the involvement of Department of Conservation in the controlled activity permit replacement process. In fact, the controlled activity requires fish passage. The very thing that may allow the further incursion of trout and the loss of galaxiids.
23. PC7 will not only put the catchment in limbo for 8+ years (6 year terms plus the time taken to replace permits) but may result in the further loss of our very important native species.

24. If the lodged permits were processed under the current plan then special habitats can be assessed and included in the application and applicants can work co-operatively with the Department of Conservation. Farmers in the Lindis Catchment and the Kyeburn Catchment have agreed to work with the Department of Conservation to develop a plan to look after these habitats.
25. Short term permits do not justify the time, or level of investment required to complete the required assessments or implement any changes to intakes or adaptive management options.

Upper Taieri catchment water management was close

26. Cohesion and fairness between water users in the Taieri Catchment is an important factor in everyone being motivated to work together to look after the resource. The catchment is in the final stages of transferring to the new regime where all the minimum flows will be included in consents, residual flows are in place to look after values at intakes sites and opportunities to look after the unique values are identified and actioned.
27. Most of the remaining consent applications have been lodged or are being prepared. Once those permits are issued the irrigators expect the ORC would implement Policy 6.4.5 and call in any of the permits that are linked to the mainstem flow during low flow and add the minimum flow to the permits.
28. The ORC has introduced PC7 as a holding pattern while the ORC get their own Water Plan updated. This has been done without any regard for the particular circumstances of the Upper Taieri (including the Strath Taieri) catchment.
29. PC7 will stop any environmental progress for the next 8+ years. It will prevent the application of the minimum flow, as the short term permits proposed under PC7 are not issued with new minimum flows. PC7 does not include any consideration for native freshwater species. The Taieri catchment has galaxiids and long fin eels. Six and fifteen year permits do not provide security for investment or alterations to intakes or abstraction patterns to benefit the environment.
30. The Strath Taieri community along with the rest of the Upper Taieri irrigators have been preparing for post 2021 under the current plan for a long time. It is incredibly frustrating that the ORC has ignored all the Upper Taieri community work and stopped the progress with the inclusion of the catchment in PC7.
31. We ask the PC7 be abandoned. And if that doesn't happen then the Upper Taieri should not be included in the Plan Change.

Appendix 1 Skelton Report 2019 Page 14 and 15

Since the Water Plan became operative in 2004, the Council has promoted a policy of “use it or lose

¹ “Every deemed permit resulting from a mining privilege under subsection (1)(c) or (d) shall be deemed to include a condition to the effect that it finally expires on the 30th anniversary of the date of commencement of this Act.”

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it”, encouraging the remaining deemed permit holders to use their water in order to demonstrate their volume of ‘historic’ usage when they apply to replace the permits. In some catchments, notably the Manuherehia, this “use it or lose it” message has reportedly had the effect of encouraging increased usage, including wasteful usage.

The Water Plan also has an “efficient use” requirement which has reportedly encouraged some deemed permit holders to shift away from flood or border dyke irrigation to more sophisticated spray and pivot irrigation, the funding of which requires greater productivity from more intensive land and water use. Dairy farming, for example, has increased in the Manuherehia from no dairy platforms in 2008 to at least 15 (refer to Table 1 below) now identified in the Agribase² database.

Table 1: Otago catchments with the most deemed permits (as at 17 September 2019) and number of dairy farms in the region

Catchments with deemed permits	Deemed Permits (takes)	RMA Water Permits (takes)	Median Expiry Date of RMA water permits	Whether over-allocated	Whether subject to Schedule 2 allocation and flow limits	Dairy farms
Taieri	74 (103)	160 (233)	2037 (2019-2023)	Yes	Yes	76
Manuherehia	71 (124)	122 (225)	2023 (2019-2052)	Yes	Yes (part of river - Falls Dam to Ophir)	15
Lindis	19 (31)	17 (28)	2029 (2021-2043)	Yes	Pending (notified and under appeal)	0
Cardrona	14 (27)	31 (55)	2038 (2020-2050)	No	Yes	0
Lowburn Creek	13 (41)	1 (2)	2046	No	Yes	0
Arrow	12 (18)	8 (19)	2030 (2021-2048)	No	Yes	0
Luggate	12 (16)	1 (1)	1 Oct 2021	Yes	Yes	0
All others (ca 50)	141 (223)	544 (836)		Approx. 60%	Approx. 30%	411
Totals	356 (583)	884 (1399)				502

Sources: Otago Regional Council (consent and plan data); Agribase (dairy farm data)

Appendix 2

Farmers step up during water crisis

Most Otago farmers deserve credit for their stewardship and the responsible approach they have taken to conserving water during the dry conditions of recent weeks.

ORC had to impose a targeted Water Shortage Direction requiring a small number of farms to ration and roster water during January.

When flows continued to recede, a direction stopping all takes from the Taieri was planned.

At the time of writing rainfall has raised the river to minimum flow levels again. This meant the Water Shortage Direction was not imposed on the whole catchment.

Water Shortage Directions allow regional councils to restrict, suspend, or apportion water at times of serious shortage.

A direction can be applied for up to 14 days and can be amended, revoked, or renewed as circumstances determine. They can be placed on individual takes or cover whole catchments.

In the lead-up to the issuing of these notices for the Taieri, ORC chief executive Peter Bodeker and other council staff met regularly with farmers throughout the region.

Updates were provided on the effect the lack of rain was having on minimum flows for the various rivers, and the council's expectations of irrigators in terms of water management.

This included the need for them to adhere to their resource consent conditions, and reminders about the process triggered by breaches of minimum flows.

Many farmers were proactive about voluntarily cutting back the volume of water they took for irrigation either in groups, or individually.

This high degree of co-operation was helpful at a time when minimum flow levels were being breached or threatened.

Strath Taieri irrigators were rationing water and rostering water use, Kakanui irrigators were rationing to ensure minimum flows were maintained, and Manuherikia catchment irrigators were also rationing while maintaining flows.

Voluntary rationing was also evident in the Waianakarua and Waiwera Rivers.

The voluntary reductions made by Kyeburn irrigators in releasing water to maintain flows at Tiroiti, and the work of the Maniototo Irrigation Company in releasing water to assist flows at Waipiata, were also noteworthy.

ORC's primary responsibility is to safeguard river ecosystems and ensure adherence to minimum flows, where these have been set through community consultation.

The proactive response of many farmers in conserving water plays a crucial part towards sustaining the river ecology.

The positive way in which groups of farmers have rallied to work jointly on water conservation bodes well for the implementation of new water allocation provisions in the Otago Water Plan.

These provisions encourage a collaborative approach to water management and allocation, particularly in Central Otago, where water allocation has been traditionally dominated by deemed permits (mining privileges) not

subject to minimum flows, and where water resources are limited in the dry months.

The provisions support the formation of community water management groups and promote local management of water takes during periods of water shortage by resource users, in the very circumstances we have just encountered.

Farmers have recently shown they are more than capable of successfully transitioning from deemed permits to resource consents.

An end date of October 2021 has been set for the life of deemed permits, which then become governed by the Resource Management Act.



ORC chief executive Peter Bodeker outlines the council's Water Shortage Direction process to a public meeting in Middlemarch on February 2.

New web portal launched

Many of Otago's irrigators use deemed permits based on historic gold mining rights to take water from races, dams, creeks, and channels derived from water races dug by the miners.

If you have a deemed permit, or mining privilege, which you use to access water you must reapply for a new water permit before they expire in 2021. However, to ensure that your access to water continues we recommend that you get your application in by November 2020 at the latest.

Before you submit your application there is a lot you can do to make sure that the process is as smooth and seamless as possible. One of the most important things that you can do to assist your application is to provide all the supporting information that you can to make it easier for our consents team to review it.

ORC has developed a web portal to help those changing from deemed permit to a consent

to take water to access the information freely available to assist with their application.

This portal provides information on water takes in your area, resource consents held, along with local rivers and streams, and information that we hold on important fish species in the area.

It may not provide all the information you need and you may need to collect more data, but it is a good starting point to help understand what's already known about your area.

You have the option of a more advanced search using the mapping tool. This tool offers the choice of 18 layers, including water temperature, surface water level, water take and rain gauge locations. Please note that not all layers may have information to display for your search area.

The information provided in the web portal will assist with two key steps in the resource



consent application process: collecting supporting information, and providing an assessment of environmental effects (AEE).

Would you like to have more advice on how to complete your application? It's often good to talk to the experts: you can contact us on 0800 474 082 between 8am and 5pm Monday to Friday. Or email your questions to: public.enquiries@orc.govt.nz

Check out the portal: www.orc.govt.nz/fishandflowportal

Appendix 4 Front page of the Aqualinc Report used by ORC



