



# 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: **Marian Elizabeth Weaver**.....

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

Depends on where the hearing is; Will the Environment Court hear the PC in Dunedin?

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

**Trade competitor’s declaration** (if applicable)

I ~~could~~ could not (circle one) gain an advantage in trade competition from this submission

I am ~~I 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: .... *Marian Weaver* 20 April 2020  
..... Date: .....

(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.**

**Background.** I was a manager in the Consents Department for the Otago Regional Council for 25 years. I am an accredited hearing commissioner. Under the Resource Management Act 1991. (RMA) I have a detailed understanding and experience of the Regional Plan: Water (RPW), deemed permits and water use in Otago.

For almost 2 years I have been preparing consent applications for persons wishing to replace their expiring water permits as a consultant. ....

**State what decision you want the Otago Regional Council to make:**

*(e.g. amend policy 'y' to say....)*

I do not support PC 7 for a number of reasons, and wish to see it withdrawn.....

**Give reasons for the decision you want made:**

*(e.g. I want policy 'y' changed because...)*

**1. Transitional Regime.** The existing RPW provides a transitional regime from deemed permits to new RMA permits. This includes policies for formation of water management groups; the members of which cooperate to ensure residual and minimum flow limits are upheld, and share water between users as flow levels in water bodies decrease.

The priority system that exists with existing deemed permits must be replaced with somethings else. Water Management groups provide this with their new water sharing regimes.

PC 7 does not provide a transition out of the priority system and excludes consideration of existing policies for the deemed permit transition.

PC7 states that the existing RPW does not have enough directive policy for the transition out of deemed permits. There are many policies about water permit replacement. If they are not directive enough then the solution is to provide a plan change that strengthens them.

The s32 report does not provide an assessment of alternatives to PC7. It includes an assessment of options A-C, and a non-specific analysis of the existing plan policies but no robust discussion of alternatives.

**2. Term of Consents.** The proposal to have short term 6-year replacement consents is unfair and unnecessary for several reasons:

**(a). A longer-term consent can be reviewed under S128 of the RMA:**

“A consent authority may, in accordance with [section 129](#), serve notice on a consent holder of its intention to review the conditions of a resource consent—

(b) in the case of a coastal, water, or discharge permit, when a regional plan has been made operative which sets rules relating to maximum or minimum levels or flows or rates of use of water, or minimum standards of water quality or air quality, or ranges of temperature or pressure of geothermal water, and in the regional council’s opinion it is appropriate to review the conditions of the permit in order to enable the levels, flows, rates, or standards set by the rule to be met; or.....”

(underlining my emphasis)

The ORC has in the past used this section to implement minimum flow provisions brought into the Water Plan. Examples are for the Pomahaka and Waianakarua catchments. I managed both of those processes that were straightforward desk top exercises and met little resistance from permit holders, as they had been involved in the plan change processes that introduced the new minimum flows.

There is no discussion of this process in the S32 report that accompanies this plan change as an alternative to a short-term consent.

If there are concerns about the cost of doing such reviews, ORC can fix charges via its Annual Plan process under s36 of the RMA, to retrieve such cost from the consent holders:

“S36 (1)A local authority may from time to time fix charges of all or any of the following kinds:

- (cb)charges payable by holders of resource consents, for the carrying out by the local authority of any 1 or more of its functions in relation to reviewing consent conditions, if—
  - (i) the review is carried out at the request of the consent holder; or
  - (ii) the review is carried out under [section 128\(1\)\(a\)](#); or.....”

**(b) A 6-year permit inhibits farmers’ and horticulturalists’ ability to invest in development of their farms and increases costs for obtaining consents.**

The consent holders are NOT responsible for the delays in the ORC drawing up plan changes to provide for minimum flows and allocation limits on Otago’s rivers.

Yet consent holders will suffer financially from being given only a 6-year term on their permits:

**Consent Processing Costs**

Firstly, consent holders must pay for the preparation of consent applications that requires ecological and efficiency assessments, and the use of consultants to do this. This can cost several thousands of dollars in preparation of the application and several thousands more in ORC processing fees. In 5 years’ time that cost will have to be born again by consent holders, as to meet s124 requirements a new application must be lodged at least 6 months before the expiry of the consents.

There is only the briefest reference to this in the s32 report.

Many consent holders have already taken steps to obtain a long-term replacement of water permits e.g investment in efficient infrastructure, paid consultants to undertake science work and prepare consent applications. Farmers have been told for years by ORC about the steps they would need to take to replace their consents. Many farmers have worked in good faith to prepare for this.

**Wasted Investment**

Secondly when the water measuring regulations were introduced many water takers had to decide whether to make the investment in installing measuring equipment. For open races in particular this could cost up to \$30,000. At the time some little used permits were surrendered as it was not worth the expense of the measuring gear for the yield of water. For those who invested in measuring equipment it leads to further investment in making water races water tight or piping stretches of water races, installing storage and investing in more efficient irrigation equipment.

Being faced with a 6-year term **stops** such investment. This is investment, that overall has a positive effect on the environment by minimising water losses, harvesting water during high flow times and using water more efficiently. This all has a net result of taking less water to use.

I have many examples of the 6 year term effect on this investment but cite only two here – in Central Otago a farmer wishes to replace the water race he uses with a pipe, which will reduce water losses from the race. On being told he will only get a 6 year permit he said it is not worthwhile the investment.

A Maniototo farmer wishes to build a 400,000m<sup>3</sup> irrigation storage dam for an investment of \$1.2 million. On hearing of the 6-year term he advised that such plans are on hold now. ....

PC 7 says nothing about what can be expected after 6 years. 6 years is not enough time for investments to be made in irrigation infrastructure.

**(3) Historic Water Use Averaging Calculations**

The methods in PC 7 for calculation of what allocation of water will be on the new permit is severely flawed:

Those who have written this method have no understanding of how water is used by many farmers. A large number of permits are on small streams, and/or streams that have huge variation in flow during the year. Similarly, the rainfall can vary hugely from year to year. Therefore, water use can vary hugely from year to year.

Dryland farmers use water for winter crops, lucerne and stock water. These irrigated areas on dryland farms are often small in the context of the whole farm, but important for the provision of food for animals throughout the year.

The averaging method denies consent holders the ability to take the water they need during dry times, or when water may be available to take to storage. For a monthly take record, the pattern is often that over a 5-7 year record of use there is a month, or a couple of months where the take was high. This would be in dry conditions when a fresh came through that allowed such taking to occur. This would be a time when access to that water was a godsend, and meant the survival or not of a winter crop. It might also be a time when a storage dam could be replenished. Averaging the amount taken removes those peaks that are so necessary.

The same applies for annual amounts of water. One of my clients in North Otago did not take water for a whole season when rainfall was good and then floods occurred. Including a zero use or very low use in one year pulls down an average severely and means that the water required for a dry year is not on the new permit.

Protection of the stream is in place while those peak taking times occur; first with the instant rate of take and monthly rate that have limits, the compliance with a residual flow and/or minimum flow and/or stream levels dropping such that water can't be taken.

ORC uses Aqualinc guidelines to assess efficiency of water use. Aqualinc comes up with an optimum amount of water for the location, crop and climate type of a property. Assessment of historic water use for permits usually shows that the amount that permit holders take is far less than Aqualinc guideline levels, and this is because of the limits on taking because of the reasons listed above.

It is unnecessary to adversely limit the amount of water that may be taken under a new permit, when controls are, and can be in place as conditions to protect the water body from which the water is taken.

The following two examples of farms illustrate this point:

#### **Example 1 North Otago – Small Family Dairy Farm**

PC 7 says you take the maximum month for each water year, add together the maximums and divide by the number of water years.

Year	Max per month m3
13/14	35
14/15	62
15/16	25
16/17	23
17/18	66

Average is 42.2m3.

On this property, rainfall and seasons vary hugely. Often in December or January things can be very dry when they need a lot of water. For some other months they may need very little irrigation water. They are also subject to a residual flow that they observe.

On getting the new permit, the 42.2m<sup>3</sup> maximum will not enable them to irrigate the way they have for that one dry month of the year. This serves no environmental purpose and does not provide for the actual use that is promised in the s32 report.

### Example 2 Maniototo- Beef and Sheep Farms

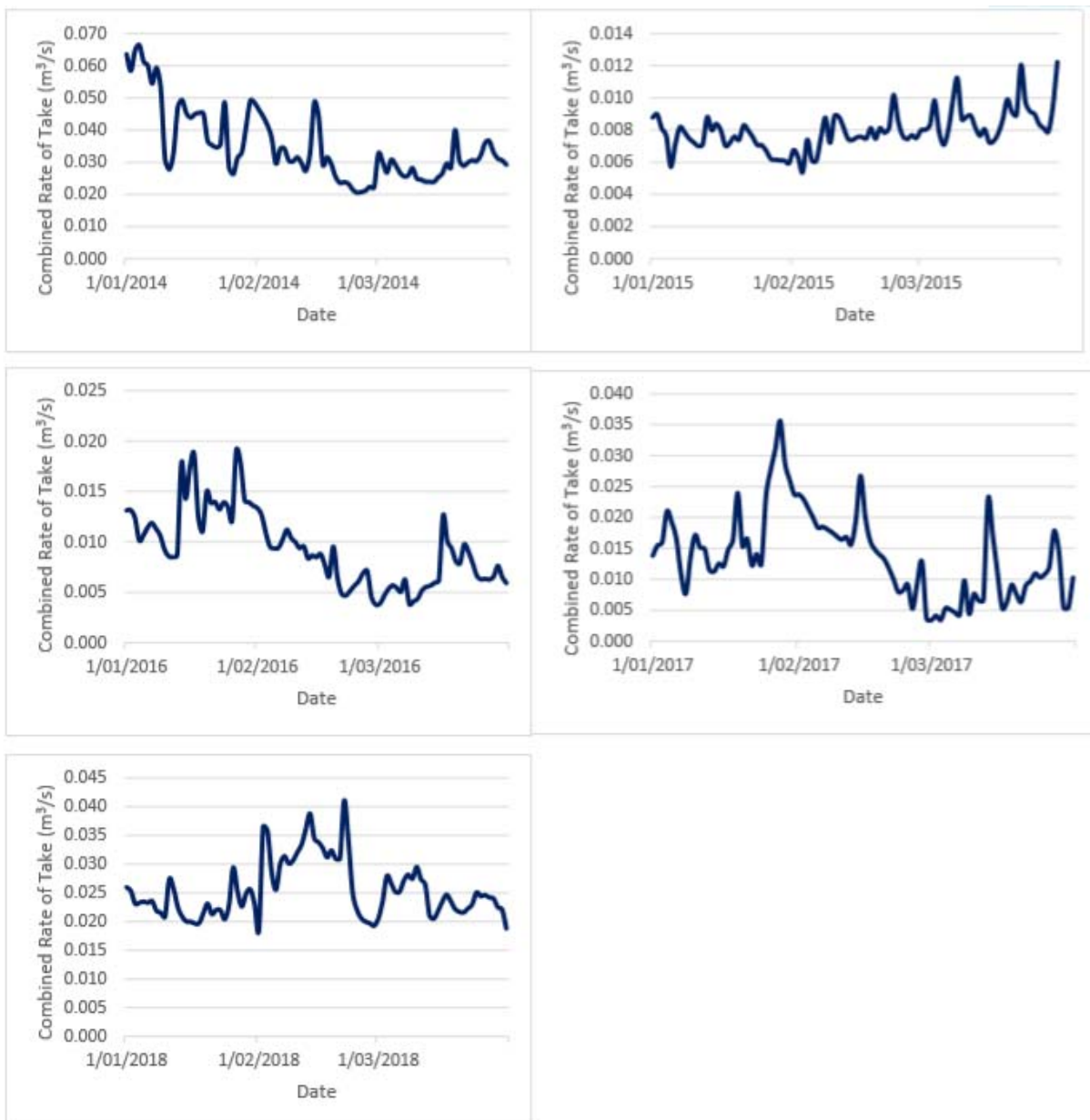
The graphs below show the combined take of 4 water permits for 3 farms on one augmented tributary of the Taieri River. There is a self-imposed residual flow in place to protect rare galaxiids that have survived on this tributary. In addition, the water users cooperate in ensuring that there is always a flow available for stock water. Irrigation usually ceases by Christmas.

Note the huge variation in water taken within a year, and between years.

For the highest monthly take in each year in m<sup>3</sup> these are 65, 12, 20, 35, 42 = average 34.8m<sup>3</sup>

The new monthly average does not provide for the times when a higher take is possible, and needed.

The S32 report states that this transitional plan will allow the actual use to continue, but the averaging of maximum use does not provide for this.



#### (4) Length of Water Use Record

PC7 10A3.3.3 (iv) and (vi) refer to consideration of the water use record from 2012 to 2017. The longer the length of record considered, the better - due to yearly climate variations. Permit holders now have data for the 18/19 and 19/20 years. There is no reason given in the s32 report for excluding the 2 most recent years of water use in considering historic water use. If PC 7 must endure, the most recent years should be included in water use calculations.

In addition, the s32 report states in several places that PC7 will enable water use data to be collected. Most permit holders now have at least a 5 year record of use that has been required since water measuring regulations were introduced. The information is submitted to ORC via electronic means and ORC staff can readily produce a report on water use for a permit.

PC7 does not enhance the ability to analyse water use data: this is a data operational matter for ORC staff and not related to PC7.

**(5) Land Area Under Irrigation.** In recent years permit holders have been encouraged to stop flood irrigation, install spray equipment and use water more efficiently. This in some cases means more land than previously can be irrigated. 10A.3.1.1 (iii) states that if new land has been opened up to irrigation in the 19/20 irrigation season then the application becomes non-complying. This is a retrospective requirement which viewed from any consideration is **simply unfair**. Permit holders could not have seen this coming, and if they had they would likely not have spent the money for the irrigation infrastructure required for the new irrigated land.

The choices for irrigators who have increased irrigated land in the 19/20 year under PC 7 are:

- Stop including that newly irrigated land in an application thereby making redundant the equipment purchased to do so. A total waste of investment.
- Apply for a non-complying activity which the s32 report states is a difficult process.

**(6) Residual Flows.** Deemed permits do not have residual flows, and are not subject to minimum flows. Consent replacement is an opportunity to introduce residual flows to protect in stream values for the first time for many streams in Otago. Permit holders are expecting this to happen.

PC 7 requires any existing residual flows to be applied, and in many cases that is zero. There will be ongoing degradation of many streams for a further 6 years if PC 7 is implemented in this respect.

**Conclusion:** PC7 is unfit for its stated purpose and should be withdrawn.

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#### SUBMISSIONS MUST BE RECEIVED BY 5.00 PM ON Monday 4 May 2020

Post to	Otago Regional Council Private Bag 1954 Dunedin 9054
Email to	policy@orc.govt.nz
Deliver to	Otago Regional Council offices at: <ul style="list-style-type: none"><li>▪ 70 Stafford Street, Dunedin</li><li>▪ William Fraser Building, Dunorling Street, Alexandra</li></ul>

- Terrace Junction, 1092 Frankton Road, Queenstown

Online at

[www.orc.govt.nz](http://www.orc.govt.nz)

**Please note:**

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- it is frivolous or vexatious:
- it discloses no reasonable or relevant case:
- it would be an abuse of the hearing process to allow the submission (or the part) to be taken further:
- it contains offensive language:
- it is supported only by material that purports to be independent expert evidence but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.