

Amendment to current water permit Applications - Form 4D

Form to make changes to an application relating to a deemed or water permit application currently being processed



This application is made under Section 88 of the Resource Management Act 1991

Phone: 0800 474 082

Website: www.orc.govt.nz

IMPORTANT NOTES

This form is to be used if you have an application currently in with ORC and would like to make changes to it as a result of the decision from the Environment Court on Plan Change 7 to the Water Plan. If you want to make changes to other parts of your application (e.g. damming or diversion activities) please include that as separate information.

Please ensure that you complete all parts of the form that are relevant to your application. Filling in this form will help us make the changes to the application relating to the water take. We may still need to ask you some follow up questions, or clarify things with you.

You can request a copy of the rate of take as calculated in accordance with Schedule 10A.4 and we can supply this to you.

Any changes that you make need to be within scope of your original application. Typically this means you cannot increase what you are proposing to do and if you do, the effects need to be the same or similar to those already included in your application. Information on amendments can be found here: <https://www.orc.govt.nz/media/10065/practice-note-amendments-to-applications.pdf>

You may wish to include other information with this form, by attaching it as an appendix. However, this is not a requirement.

Application Number/s (RM)	
Application Numbers this amendment relates to (RM)	
Applicant Name/s	
Consultant	

SECTION ONE: Amendments sought – Controlled activity

Making changes to your application here means that it is in line with the controlled activity rule introduced in the decisions version of PC7 (as long as there are no appeals to the decision as released by the Court). This controls what we look at for the water take component and means the consent to take water must be approved. You can make the changes by answering the questions and ticking the boxes.

1. Does your activity now meet the following provisions of **Controlled Activity Rule 10A.3.1.1?**

1.1 Is the consent duration sought for no more than six years?

Yes

State the consent duration sought: _____

No

1.2 Is the deemed or water permit that is being replaced a valid permit (*refer to definitions at bottom of form*)?

Yes No

1.3 If the water take will be used for irrigation, does the total land area proposed to be irrigated not exceed the maximum area irrigated in the period 1 September 2017 to 18 March 2020?

Yes, move to question 1.4 No, answer questions 1.3.1 – 1.3.3

1.3.1 Please tell us the maximum area irrigated in the period 1 September 2017 to 18 March 2020 and attach information to support this (e.g. aerial photographs, infrastructure plans):

1.3.2 Please tell us the maximum area proposed to be irrigated: _____

1.3.3 If additional area is to be irrigated, is this for orchard or viticulture land uses only and were the mainline irrigation pipes servicing the additional area installed before 18 March 2020?

Yes, then please provide the below No, this cannot happen under this rule, please talk to the consents team

The additional maximum area to be irrigated _____ ha

Please attach information to show that the additional area beyond what you have already applied for is for orchard or viticulture land use only and that mainline irrigation pipes were installed before 18 March 2020 (e.g. plans, finance records)

Please outline the good management practices to be applied to the additional area:

1.4 Is the proposed/amended rate of take no more than the maximum rate of take recorded during the water years (1 July to 30 June) for which water meter data is available up until 30 June 2020, as calculated in accordance with the method in Schedule 10A.4 (decisions version)? *You can ask us to run this calculation for you.*

Yes No, answer 1.7 if it applies

If yes, state the rate of take that is being applied for: _____ L/s

If yes, state the rate of take calculated in accordance with Schedule 10 /s _____ L

1.5 Are any existing residual flow, minimum flow, or take cessation condition(s) on the expiring Deemed Permit or water permit included in the application for resource consent?

Yes - If yes, please detail below. **No** **N/A** (not making any changes)

1.6 Is the volume of water proposed to be taken no more than the daily volume limit, and monthly volume limit, and annual volume limit (whichever one or more are applicable) recorded during water years (1 July to 30 June) for which water meter data is available up until 30 June 2020, as calculated in accordance with the method in Schedule 10A.4? *You can request this data and a report from us.*

Yes (please complete the table below) **No** **N/A** (not making any changes)

	Consented volumes	Volumes (lodged with application)	Applied for volumes (as amended)	Schedule 10A.4 volumes
Daily volume (m ³)				
Monthly volume (m ³)				
Annual volume (m ³)				

1.7 For takes authorised by a Deemed Permit or water permit where metering is not required by a condition of consent or by the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 (e.g. takes less than 5L/s or non-consumptive takes), is the rate of take and the volume of water sought no more than the existing consented instantaneous rate of take and volumes?

Yes (please complete the table below) **No** **N/A** (not making any changes)

	Current consented rates and volumes	Changed rates and volumes (as amended)
Rate of take (L/s)		
Daily volume (m ³)		
Monthly volume (m ³)		
Annual volume (m ³)		

1.8 Where the application is to replace an Upstream Deemed Permit that was subject to a Downstream Permit with a Higher Right of Priority, do you/ the applicant propose the following condition?

The consent holder proposes to:

- a. Cease taking water when there is insufficient flow at the point of take of the Downstream Permit with a Higher Right of Priority and notice has been given by the holder of the Downstream Permit with a Higher Right of Priority; and
- b. Provide a Contact Management Plan to the Consent Authority.

Yes (please identify the deemed permit(s) with the higher priority) : _____

No

N/A

If you are only wanting your application to be considered as a controlled activity you do not need to complete section 2, PLEASE SKIP AND COMPLETE SECTION 3, SECTION 4 and SECTION 5 .

SECTION TWO: Only complete the following section if you are seeking to amend your application to meet
Restricted Discretionary Rule 10A.3.1A.1

2. Does your activity now meet the provisions of **Restricted Discretionary Rule 10A.3.1A.1**

2.1 Does your activity meet conditions (i), (ii), (iii), (v), and (viii) of Rule 10A.3.1.1 (complete sections 2.1, 2.2, 2.3, 2.5 and 2.8 above) but does not meet condition (iv) and/or condition (vi) (sections 2.4 and/or 2.6)?

Yes No

2.2 Where the activity does not meet (iv) and (vi) of Rule 10A.3.1.1 has a water meter for the take been installed, or an exemption under the Resource Management (Measuring and Reporting of Water Takes) Regulations 2010 from water metering has been granted?

Yes (please complete the table below) No N/A (not making any changes)

If yes, please provide evidence of historical use of the take including water meter data and outline clearly any other methods and data used to calculate and determine historical use and how these accurately represent it.

2.3 If the activity is for community water supplies within existing water permit volume and rate limits, the need to provide for population growth for the term of the consent.

No Yes - please provide supporting information of population growth over the term of the consent sought and water requirements for this population growth.

SECTION THREE: Are you making any other changes to your Application?

3.1 In this section let us know if you are making any other changes to the water take and use application you currently have lodged with Council. This may include the removal or modification of mitigation measures proposed e.g. residual flows, fish screens, fish passage, proposed improvements in irrigation efficiency. Please detail below changes to your application (in addition to those outlined above).

3.2 Your application may have included consents for activities associated with the replacement water take such as diversions, damming, discharges and/or instream works. Please outline any changes to these applications. This may include a change to the consent duration sought.

SECTION FOUR: Is Your Amendment in Scope of the Original Application Lodged?

4.1 In this section we need to know if the changes you are making are similar to your current application. Please answer the questions below and provide an explanation.

Yes – complete the below

No - You will need to withdraw your current application and lodge a new application or alter the amendments you are seeking. Please speak with Council regarding your options.

e.g. [provide specifics as they relate to your application and amendment sought. The below are some examples and will not apply in all circumstances]

- *The amendment will alter the effects of the original proposal by reducing the extent and intensity of the effects or the amendment removes mitigation measures but an 'in the round' assessment that takes into consideration the reduced consent term means that*
- *The amendment is seeking some changes to the activity lodged. These include*
 - *A reduced irrigation area from x to x*
 - *A reduction in the rates and volumes sought from x to x*
 - *....*
- *The amendment sought is for the same activity lodged. The only change is a reduction in the consent term sought from x to x*
- *These changes are not considered to be significantly different than what was applied for and/or reduce the scale and intensity of the activity.*
- *The amendment is reducing the scale and intensity of the proposed activity by seeking a reduced consent term and xxx the effects of the proposal will be the same or less than the original proposal.*
- *No notification decision has been made on the application.*
- *It is considered, overall, that the amendment is within the scope of the original application lodged.*

4.2 For section 124 (ability to continue operating under your current Deemed Permit/water permit until there is a decision on the application and any appeals resolved), is the amended Application still for substantially the same activity as the water permit/deemed permit that is being replaced? Refer to the attached practice note for guidance: [technical-practice-note-s124-continuation-rights-updated.pdf](https://www.orc.govt.nz/technical-practice-note-s124-continuation-rights-updated.pdf) ([orc.govt.nz](https://www.orc.govt.nz))

Yes (please attach supporting information) **No**

4.3 Have any identified stakeholders, affected or interested parties to your application been consulted with about the proposed amendments?

Yes (please attach supporting information) **No**

SECTION FIVE: Policy Assessment Against PC7

The final step in making changes to your application is assessing it against the decisions version of the objectives and policies in PC7. We have put these in a table for you and added in an example assessment. You can do your own assessment if you like. You do not need to do an assessment against other plans.

Provisions	Example assessment	Does the example assessment apply to your activity? <i>Say yes/no, provide a comment or complete your own assessment</i>
<p>Objective 10A.1.1 Facilitate an efficient and effective transition from the operative freshwater planning framework toward a new integrated regional planning framework, by managing: (a) the take and use of freshwater; and (b) the replacement of Deemed Permits, and (c) the replacement of water permits for takes and uses of freshwater where those water permits expire prior to 31 December 2025.</p>	<p><i>This objective seeks a transition toward the long-term sustainable management of surface water resources in the Otago region through the establishment of an interim planning framework until such time as the new Land and Water Regional Plan is made operative. The proposal is consistent with this objective.</i></p>	
<p>Policy 10A.2.1 – replacement consents Irrespective of any other policies in this Plan, avoid granting resource consents that replace Deemed Permits, or water permits for takes and uses of surface water (including groundwater considered as surface water under policy 6.4.1A (a), (b) and (c) of this Plan) where those water permits expire prior to 31 December 2025, except where: (a) The Deemed Permit or water permit that is being replaced is a valid permit; and (b) There is no increase in the area under irrigation, except where any additional area to be irrigated is only for orchard or viticulture land uses and all mainline irrigation pipes servicing that additional area were installed before 18 March 2020; and (c) Any existing residual flow, minimum flow or take cessation condition is applied to the new permit; and (d) For takes other than community water supplies there is no increase in: (i) the historical instantaneous rate of abstraction; and (ii) any historical volume of water taken.</p>	<p><i>In relation to these matters, the water permit that is to be replaced is 'valid'; there is no increase to the existing command area of irrigation except where there was existing infrastructure for viticulture and/or orchard areas (where this was installed before 18 March 2020); I am proposing that existing conditions relating to any residual flow, minimum flow or take cessation are carried over and there is no increase in the historic rate of abstraction or historic water use. As all of these provisions are met, granting of this application is consistent with this policy.</i></p>	

<p>Policy 10A.2.2 – Duration <i>Irrespective of any other policies in this Plan concerning consent duration, only grant resource consents for takes and uses of freshwater, where this activity was not previously authorised by a Deemed Permit or by a water permit expiring prior to 31 December 2025, for a duration of no more than six years.</i></p> <p><i>*note if you are a hydro scheme listed in the schedule to PC7 then you will need to assess Policy 10A.2.3</i></p>	<p><i>The application is for a consent duration of no more than six years so is consistent with this policy.</i></p>	
<p>Policy 10A.2.4 – Priorities <i>Where the flow at the point of take of a Downstream Permit with a Higher Right of Priority is insufficient to supply that permit, the holder of an Upstream Replacement Water Permit may be required to cease taking water.</i></p>	<p><i>Priorities apply to the Deemed Permit I am replacing and I am an upstream permit holder who is affected by the priorities. I am volunteering a condition to be added to my permit to reflect this system of water management.</i></p> <p><i>OR</i></p> <p><i>I am not replacing a deemed permit and/or no priorities apply to the permit I am replacing and Policy 10A.2.4 is not relevant for my application.</i></p>	

Definitions for terms used in Plan Change 7 (decisions version)

Valid permit

In the context of Chapter 10A, means a resource consent or deemed permit that

- (a) has not expired; or*
- (b) has expired but where the consent holder can still exercise the permit under s124 of the RMA; or*
- (c) has not been surrendered under s138 of the RMA; or*
- (d) has not been cancelled under s126 of the RMA; or*
- (e) has not lapsed under s125 of the RMA.*

Mainline irrigation pipes

The primary permanently installed pipelines delivering water to the irrigated area including the connections to the headworks at the pumping location.

Take cessation condition

Means a condition that seeks to limit or restrict the taking of water under specified circumstances, including:

- (a) during certain times or periods across the year;*
- (b) when other water permits within the catchment or from the same water body are being exercised;*
- (c) when water is being abstracted under the same water permit at an alternative point of take*
- (d) when recharge, water yield or inflows into the catchment or water body from which water is being taken is below a specified flow or water level.*

Right of Priority

Means a right allowing the holder of a permit to instruct another permit holder or holders to cease or reduce their take when there is insufficient water at the higher priority point of take to meet the maximum authorised allocation as authorised by:

- (a) a current mining privilege within the meaning of section 2 of the Water and Soil Conservation Amendment Act 1971; or*
- (b) right granted or authorised under the Water and Soil Conservation Act 1967 in substitution for a mining privilege; or*
- (c) deemed permit issued under s413 of the RMA; or*
- (d) resource consent granted in substitution of a deemed permit or mining privilege; and from 1 October 2021 includes a priority right that was still in force on 30 September 2021*

For the avoidance of doubt, any reference to this term in Rule 10A.3.1.1 and 10A.3.1A.1 does not create a right of priority for the purposes of section 124B(2).

Deemed Permit

has the same meaning as s413 of the RMA and includes any deemed condition conferring a right of priority.

Downstream Permit with a Higher Right of Priority

means a Deemed Permit that had not been replaced by a resource consent commencing before 2 October 2021, that was subject to a right entitling the permit holder to require the holder of an Upstream Deemed Permit to cease taking water.

Upstream Deemed Permit

means a Deemed Permit that has not been replaced by a resource consent commencing before 2 October 2021, that was subject to a right of priority entitling a Downstream Permit with a Higher Right of Priority to require the holder of an Upstream Deemed Permit to cease taking water.

Upstream Replacement Water Permit

means a resource consent granted under the RMA to replace an Upstream Deemed Permit.

Contact Management Plan

A plan that records up-to-date contact details for the consent holder to be served written notice (which may be an email address) and an acknowledgement that the contact details can be provided to a permit holder with a higher right of priority by the Otago Regional Council.

Insufficient flow

where the flow is below the level at which the holder of a Downstream Permit with a Higher Right of Priority is able to abstract water at their authorised rate of take.

Notice

A communication in writing sent to the contact details recorded in the Contact Management Plan and copied to the Consent Authority that contains the following detail:

- (a) the name and consent number of the Consent Holder giving notice;*
- (b) the name and consent number of the Consent Holder required to cease taking water;*
- (c) date and time of notice issue;*
- (d) an instruction to cease taking water; and*
- (e) a start date and time and end date and time for the cessation; the cessation period must not be longer than 72 hours from when the cessation commences.*