

**Proposed Plan Change 3C  
(Waiwera catchment minimum  
flow)**

**to the  
Regional Plan: Water for Otago**

**Officers' Report on  
Decisions Requested**



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## Abbreviations

|                                    |  |
|------------------------------------|--|
| Council                            | Otago Regional Council   |
| MALF                               | Mean annual low flow (7-day)   |
| NPSFM                              | National Policy Statement for Freshwater Management 2014                                       |
| Proposed plan change / plan change | Proposed Plan Change 3C (Waiwera catchment minimum flow) to the Regional Plan: Water for Otago |
| RMA                                | Resource Management Act 1991   |
| Water Plan                         | Regional Plan: Water for Otago (operative at 1 May 2014)                                       |

### Note: use of section/Section:

|         |   |
|---------|---|
| section | A reference to another section in this report.<br>A reference to a section of the Water Plan. |
| Section | A Section of the RMA.   |

### Note: text marking

|  |  |
|--|--|
| <del>Operative word</del> / <u>notified word</u> | Notified change, showing change proposed from the Water Plan |
| <del>Notified word</del> / <u>amended word</u>   | Amendment recommended in Officers' report                    |

## **1. BACKGROUND**

The National Policy Statement for Freshwater Management (NPSFM), first released by Government in May 2011 and amended on 31 July 2014, requires the Otago Regional Council (ORC) to establish freshwater objectives and set freshwater allocation limits, amongst other matters.

In terms of Section 5 of the Resource Management Act 1991 (RMA) the Regional Plan: Water for Otago (Water Plan) manages water allocation in Otago in a way that enables activities that use water, while avoiding, remedying or mitigating adverse effects of use. The Water Plan has a stated preference in Policies 5.4.2 and 5.4.3 for avoiding adverse effects on the water resource and on existing lawful users. In keeping with this preference and recent national policy, the over-allocation of water in Otago, and its effects, need to be avoided.

The physical nature of any river catchment, water quality, uses and natural values that depend on its flows, can all be adversely affected by the unrestricted taking of water.

The mechanism for restricting water takes from day to day is the minimum flow, while how much is allocated to consents is restricted by allocation limits. These are set in the Water Plan through the community process of a proposed plan change such as this one.

### **Key aspects of the proposed plan change**

Proposed Plan Change 3C (Waiwera catchment minimum flow) to the Water Plan introduces a primary and supplementary allocation and minimum flow regime.

The primary minimum flow will apply to primary status consented takes and identified permitted takes, while recent consented takes will be subject to a higher supplementary minimum flow.

### **Notification process**

The proposed plan change was publicly notified in the Otago Daily Times on Saturday 13 December 2014 and submissions closed on Monday 16 February 2015. A total of 6 submissions were received.

The *Summary of Decisions Requested*, which requested further submissions, was notified on Saturday 28 February 2015, with further submissions closing on Friday 13 March 2015. There were two further submissions received.

The Summary of Decisions Requested which is attached as Appendix 1, shows decisions requested in all submissions and further submissions, sorted by Water Plan provision.

### **The purpose of this report**

This report considers decisions requested by submitters and further submitters, and recommends adoption of the proposed plan change provisions to the Hearing Committee.

Provisions or amendments that did not receive submissions are not discussed, so these changes should be approved as proposed, subject to any minor changes for consistency purposes.

### **Documents referred to in this report**

This report should be read in conjunction with the following documents:

- *Proposed Plan Change 3C (Waiwera catchment minimum flow) to the Regional Plan: Water for Otago (13 December 2014).*
- *Section 32 Evaluation Report (13 December 2014)*
- *Summary of Decisions Requested by Provision, in submissions and further submissions (by provision) (27 March 2015). (Appendix 1)*

## 2. ALLOCATION LIMITS AND MINIMUM FLOWS

This section provides recommendations applied to specific requests on the allocation limits and minimum flows being proposed by the Plan Change. The minimum flow regime applies to the Waiwera catchment from its confluence with the Clutha/Mata-Au to its headwaters.

### 2.1 Primary allocation minimum flows

Setting an acceptable irrigation season minimum flow for primary allocation is the main focus of submissions and further submissions. The minimum flow is the river flow level below which consents to take, and some permitted activity takes, may not be exercised. It applies when water is in shorter supply and greater demand.

Primary allocation minimum flows of 260 l/s for the period 1 October to 30 April and 400 l/s for the rest of the year, are proposed to be specified in Schedule 2A.

For detail of the proposed amended policy, rule and associated provisions and the submissions received relating to this matter, refer to:

| <i>Provision code</i> | <i>Provision</i>   | <i>Page(s) of Proposed Plan Change 3C</i> | <i>Page(s) of Summary of Decisions Requested</i> |
|-----------------------|--|---|--|
| 1                     | <i>Policy 6.4.5 and Rule 12.1.4.2</i>  | 2, 4                                      | 7  |
| 4, 5                  | <i>Schedule 2A Minimum flows (Irrigation season and non-irrigation season)</i> | 6   | 8  |

#### 2.1.1 Main Issues

Two submitters requested a higher irrigation season minimum flow be considered, while others submitting supported the proposed irrigation season minimum flow of 260 l/s. All supported the non-irrigation season minimum flow of 400 l/s. The following are the main issues raised:

- A higher irrigation season minimum flow is sought for historical, environmental, cultural and river health reasons.

#### 2.1.2 Recommendation

Make no amendment to Policy 6.4.5, Rule 12.1.2.5 or Schedule 2A's minimum flows for primary allocation, as notified.

#### 2.1.3 Reasons

There is no justification for constraining the taking of water more than under the proposed minimum flow for the reasons given. Aquatic ecosystem, natural character or historical, environmental, cultural or river health values, are not considered to be compromised by taking that might occur down to a minimum flow of 260 l/s.

## 2.2 Limiting primary allocation

Primary allocation is the quantity to which the lowest minimum flows in both the irrigation and non-irrigation season apply. Setting an appropriate primary allocation limit prevents new takes that would exceed it being subject to that minimum flow. Instead, new takes would be allocated with supplementary status, at a higher supplementary minimum flow.

In the case of the Waiwera catchment, a primary allocation limit of 150 l/s is proposed, for Schedule 2A. For detail of the submissions received relating to this matter, refer to:

| <i>Provision code</i> | <i>Provision</i>                            | <i>Page(s) of Proposed Plan Change 3C</i> | <i>Page(s) of Summary of Decisions Requested</i> |
|-----------------------|---|---|--|
| 6                     | <i>Schedule 2A Primary allocation limit</i> | 6   | 9  |

### 2.2.1 Main Issue

While others supported the limit as proposed, the following summarises the decision requested by one submitter, regarding the primary allocation limit:

- Adjust the proposed limit for historical, environmental and cultural reasons.

### 2.2.2 Recommendation

Make no amendment to the Schedule 2A primary allocation limit, as notified.

### 2.2.3 Reason

There is no justification for adjusting the primary allocation limit upwards or downwards from 150 l/s, for the reasons given. Aquatic ecosystem, natural character or historical, environmental, cultural or river health values, or economic opportunities for irrigation are only likely to be compromised significantly by large adjustments to the primary allocation limit. Any significant increase in the limit would risk “flat-lining” of the river at that minimum flow, while any reduction in the limit would unnecessarily frustrate the replacement of consents for takes which are sustainable.

## 2.3 Supplementary minimum flow and allocation

This minimum flow would constrain taking for new allocations granted beyond the primary allocation limit. Those who wish to store water for use in the irrigation season can take to fill reservoirs whenever the flow exceeds 500 l/s.

For detail of the submissions received relating to this matter, refer to:

| <i>Provision code</i> | <i>Provision</i>                 | <i>Page(s) of Proposed Plan Change 3C</i> | <i>Page(s) of Summary of Decisions Requested</i> |
|-----------------------|----------------------------------|---|--|
| 7                     | <i>Schedule 2B Supplementary</i> | 6   | 9  |

|   |  |   |   |
|---|--|---|---|
|   | <i>allocation minimum flow</i>                         |   |   |
| 8 | <i>Schedule 2B Supplementary allocation block size</i> | 6 | 9 |

### **2.3.1 Main Issue**

One submitter requested an increase in the Schedule 2B minimum flow for supplementary allocation of 500 l/s, to 800 l/s, to make it more consistent with other Otago catchments, while other submitters supported that minimum flow. All submitters supported the retention of the supplementary allocation block size of 100 l/s.

### **2.3.2 Recommendation**

Make no amendment to Schedule 2B's minimum flow for supplementary allocation or its block size, as notified.

### **2.3.3 Reason**

The higher supplementary minimum flow applying in the Pomahaka catchment reflects the high significance of the brown trout fishery in that river. The Waiwera River, while having important trout spawning and other fishery values, does not warrant a minimum flow that would significantly constrain new take opportunities.

### 3. OTHER PLAN CHANGE MATTERS

#### 3.1 Whole plan change, maps, minor and consequential changes

General submissions were made relating to the whole plan including the new maps and the minor and consequential changes tabled on page 7.

For detail of these matters and the submissions received relating to them, refer to:

| <i>Provision code</i> | <i>Provision</i>                | <i>Page(s) of Proposed Plan Change 3C</i> | <i>Page(s) of Summary of Decisions Requested</i> |
|-----------------------|---------------------------------|---|--|
| 2                     | Maps B13, B15                   | Following p 8                             | 7  |
| 9                     | Whole of plan change            | -   | 9  |
| 18                    | Minor and consequential changes | 7   | 10   |

##### 3.1.1 Issues

Submissions supported the Plan Change and sought changes consequential to the decisions requested. The amended maps were supported.

##### 3.1.2 Recommendation

Make the minor and consequential amendments in the table on page 7 of Proposed Plan Change 3C, and any other amendment necessary to give effect to the plan change.

##### 3.1.3 Reasons

Clause 10(2) of Schedule 1 RMA provides for any necessary consequential alterations.

## **4. MATTERS NOT ADDRESSED IN THIS PLAN CHANGE**

### **4.1 Matters beyond the scope of the plan change**

One submitter requested that water meters be made mandatory for any water taken for dairy shed usage. Another requested evidence be provided of historical water take, to allow review of primary water take.

See page 12 of *Summary of Decisions Requested*.

#### **4.1.1 Recommendation**

Make no amendment to address matters beyond the scope of this plan change.

#### **4.1.2 Reasons**

Take measurement requirements are most appropriately left to national regulation.

Policies or rules for reviewing consents to address primary allocation taking need to be considered carefully in the context of all Otago catchments, and would need consultation before proposing.