

Proposed Plan Change 3C (Waiwera catchment minimum flow)

to the Regional Plan: Water for Otago

Council Decisions

Otago Regional Council resolved to adopt the recommendations of the Hearing Committee on Proposed Plan Change 3C (Waiwera catchment minimum flow) at its meeting on Wednesday 5 August 2015, as follows:

That Council:

1. *Adopt the recommendations of the Hearing Committee on Proposed Plan Change 3C (Waiwera catchment minimum flow) to the Regional Plan: Water for Otago with tabled amendments as its decision;*
2. *Publicly notify its decisions on Proposed Plan Change 3C (Waiwera catchment minimum flow) to the Regional Plan: Water for Otago on Saturday 8 August 2015; and*
3. *Notify submitters of its decision.*

All references to the recommendations of the Hearing Committee must now be read as being the decisions of Council in the following report.

This report presents the recommendations of the Hearing Committee to the Otago Regional Council on submissions and further submissions to Proposed Plan Change 3C (Waiwera catchment minimum flow) to the Regional Plan: Water for Otago.

Hearing Committee:



Councillor Louise Croot

Chairperson

Councillor Sam Neill



Councillor Bryan Scott

6 May 2015

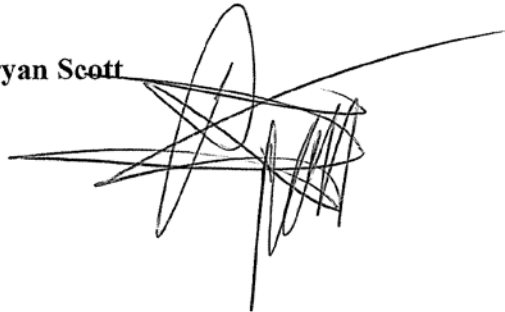


Table of contents

1.	BACKGROUND	1
2.	ALLOCATION LIMITS and MINIMUM FLOWS	2
2.1	Primary allocation minimum flows	2
2.2	Limiting primary allocation	3
2.3	Supplementary minimum flow and allocation	3
3.	OTHER PLAN CHANGE MATTERS	5
3.1	Whole plan change, maps, minor and consequential changes	5
4.	MATTERS NOT ADDRESSED IN THIS PLAN CHANGE	6
4.1	Matters beyond the scope of the plan change	6

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. A reference to a section of the Water Plan.
Section	A Section of the RMA.
Note: text marking	
Operative word / <u>notified word</u>	Notified change, showing change proposed from the Water Plan

1. BACKGROUND

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.

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 *Officer's Report on Decisions Requested*, which evaluated decisions requested by submitters and further submitters, and made recommendations to the Hearing Committee, was released on Friday 27 March 2015.

Submissions on the proposed plan change were heard on Tuesday 21 April 2015 in Dunedin. Five submitters presented evidence to the Hearing Committee, with one submitter having evidence read out.

Submitters were supportive of the plan change, although the main matter raised was to lift the minimum flow as notified from 260 l/s to 310 l/s or higher.

We thank all of the people who have participated in this plan change process. We have read all submissions and listened to evidence presented at the hearing. In preparing our recommendations we have also been mindful of the Otago Regional Council's statutory responsibilities under the Resource Management Act 1991 (RMA), the National Policy Statement on Freshwater Management 2014 (NPSFM).

As a result of the submission and hearing process, our recommendation to the Otago Regional Council is to amend the plan change as shown in Appendix 1 to this report.

Our recommendations in detail follow.

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 is the main issue raised:

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

2.1.2 Recommendation

We considered the submissions and recommend the following:

- (a) Make no amendment to Policy 6.4.5 and Rule 12.1.2.5
- (b) Amend Schedule 2A irrigation season primary allocation minimum flow, from 260 l/s as notified, to 300 l/s.

2.1.3 Reasons

This higher minimum flow has little impact on the security of supply for the 150 l/s of primary takes in this catchment, while increasing certainty for sustaining instream

values and natural character. Several water takes already observe a minimum flow at or near 300 l/s, with little or no storage needed to get by the infrequent dry spells.

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

We considered the submissions and recommend the following:

- (a) Adopt the primary allocation limit in Schedule 2A 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 allocation minimum flow</i>	6	9
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

We considered the submissions and recommend the following:

- (a) Adopt the supplementary allocation minimum flow and 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

We considered the submissions and recommend the following:

- (a) 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

We considered the submissions and recommend the following:

- (a) 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.