

Proposed Plan Change 3A (Minimum Flow for Taieri River at Tiroiti) to the Regional Plan: Water for Otago

Decisions of Council

Otago Regional Council resolved to adopt the recommendations of the Hearing Committee on Proposed Plan Change 3A (Minimum Flow for Taieri River at Tiroiti) at its meeting on 8 December 2010, as follows:

That Council:

- 1. Adopt the recommendations of the Hearing Committee on Proposed Plan Change 3A (Minimum Flow for Taieri River at Tiroiti) as its decision;*
- 2. Publicly notify its decisions on Proposed Plan Change 3A (Minimum Flow for Taieri River at Tiroiti) on Saturday 11 December 2010; 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 3A: (Minimum Flow for Taieri River at Tiroiti) to the Regional Plan: Water for Otago.

Hearings Committee:

Councillor Duncan Butcher
Chairperson

Councillor Louise Croot

Councillor David Shepherd

Table of Contents

1	Introduction	Page 1
2	Recommendations	2

<i>Section</i>	<i>Matters</i>
1	Arrangements for a new minimum flow
2	Determining the new minimum flow at Tiroiti
3	Minor and consequential matters
4	Matters beyond the scope of the proposed plan change
5	Adoption of the proposed plan change

Attachment	Regional Plan: Water for Otago incorporating Council Decisions on Proposed Plan Change 3A: (Minimum Flow for Taieri River at Tiroiti)
-------------------	--

Abbreviations

l/s	Litres per second
Proposed plan change / plan change	Proposed Plan Change 3A (Minimum Flow for Taieri River at Tiroiti) to the Regional Plan: Water for Otago
RMA	Resource Management Act 1991
Water Plan	Regional Plan: Water for Otago

Introduction

The Otago Regional Council prepared Proposed Plan Change 3A (Minimum Flow for Taieri River at Tiroiti) to the Regional Plan: Water for Otago, detailed in the document *Table of Proposed Changes*, dated 26 June 2010. The changes proposed are:

- An addition to Schedule 2A of a minimum flow and monitoring site for the Taieri River at the existing Tiroiti flow recorder. A minimum flow of 1150 l/s is proposed.
- A new area for the Taieri River catchment upstream of Tiroiti, downstream of Waipiata, is added to Map B3. This shows also in Maps B2, B4 and the Map B Index. A drafting error with respect to the Capburn catchment is proposed for correction.
- Resultant amendment is made to Policy 6.4.5 and Rule 12.1.4.4, to refer to the new minimum flow and monitoring site.
- Further consequential and minor changes are made including noting this plan change process in the Water Plan's section 1.4 "Process of Plan preparation".

Proposed Plan Change 3A (Minimum Flow for Taieri River at Tiroiti) was publicly notified in the Otago Daily Times on Saturday 26 June 2010 and submissions closed on Monday 26 July 2010. A total of six submissions were received, one of which was received after the submission closing time occurred.

The *Summary of Decisions Requested*, which requested further submissions, was notified on Saturday 14 August 2010, with further submissions closing on Friday 27 August 2010. There were two further submissions received.

The document, *Officer's Report on Decisions Requested to Proposed Plan Change 3A (Minimum Flow for Taieri River at Tiroiti) to the Regional Plan: Water for Otago* (15 September 2010) evaluated the decisions that were requested by submitters and further submitters, and made recommendations to the Hearing Committee.

The Hearing Committee held a hearing on Friday 24 September 2010, in Middlemarch. We accepted the late submission, considered all requests made by submitters and further submitters on the proposed plan change, and examined the issues and opportunities around determining the appropriate minimum flow, in depth.

As a result of the submission and hearing process, our recommendation to the Otago Regional Council is to adopt the plan change as proposed, but with an amendment to the minimum flow at Tiroiti. We recommend the minimum flow to be 1100 l/s.

Our recommendations follow.

Recommendations

1: Arrangements for a New Minimum Flow

Adjustments to Policy 6.4.5, Rule 12.1.4.4 and Map B3, must be made for a new minimum flow to be added to the Water Plan. All of the proposed changes to these provisions were supported by those submitters who addressed them, and there was no opposition to the principle of establishing a Tiroiti minimum flow.

Recommendation

Adopt Policy 6.4.5, Rule 12.1.4.4 and Map B3, as proposed, because these provisions require amendment for adding the minimum flow to the Water Plan.

2: Determining the New Minimum Flow

A number of submitters raised issues regarding the proposed new minimum flow itself, to be specified in Schedule 2A, and the level at which it should be set.

We have looked at these arguments in detail and considered the effect of the range of options, within the band of possible minimum flows. The set minimum flows upstream and downstream and the hydrological effects of the tributaries as the Taieri River flows down its catchment, constrain the options to a narrow band, between that set for Waipiata (1000 l/s) and Sutton (1250 l/s). We are satisfied that there is sufficient data collected since 1992 to make a judgement.

We have considered how the minimum flow may be applied to secure wider beneficial use of the water, the catchment's natural characteristics, and the need to achieve the most efficient use of water. In response to the evidence we heard, we propose to achieve the above by recommending the minimum flow at Tiroiti be 1100 l/s, instead of 1150 l/s as proposed.

The submitters presented additional flow information showing that 1100 l/s at Tiroiti would provide the same surety of access to water, including for those taking downstream of Tiroiti, as 1250 l/s at Sutton.

We believe no difference will be discernible between meeting the minimum flow we are recommending and that notified for Tiroiti, and that those present at the hearing agreed the impact of a 50 l/s reduction in the minimum flow will be negligible. It would provide a little more opportunity for irrigators in the Kyeburn and Swinburn to make use of local water. At the same time, main stem flows, even though they are very low at such times, would be affected as *de minimis* by that minor extra taking in those tributaries.

Based on the evidence produced at the hearing, we understand surety of supply for every person taking water between Waipiata and Sutton will remain in the order of 98%.

Recommendation

Amend the minimum flow of 1150 l/s to 1100 l/s at Tiroiti, for Schedule 2A, because:

- Impacts on water taking at typical low flows would be almost identical whether the minimum flow at Tiroiti was 1100 or 1150 l/s.
- The small reduction improves surety of supply upstream of Tiroiti, while maintaining existing access to water downstream.
- Instream values are retained.

3: Minor and Consequential Matters

Minor and consequential changes are needed to give effect to the plan change.

Recommendation

Make minor and consequential changes because they are necessary to give effect to the final decision.

4: Matters Beyond the Scope of the Proposed Plan Change

We considered one submitter's request to amend the existing minimum flows set for Sutton and Outram to be beyond the scope of the proposed plan change. The submitter acknowledged that this request is beyond the scope.

Recommendation

Reject the submission point, because it relates to matters which are beyond the scope of this proposed plan change.

5: Adoption of the Proposed Plan Change

Final Recommendations:

- (a) That the Council adopt Plan Change 3A (Minimum Flow for Taieri River at Tiroiti) as proposed, with the amendment to set the minimum flow at Tiroiti to 1100 l/s.**
- (b) That the Council publicly notify the release of its decision on the proposed plan change on Saturday 11 December 2010.**
- (c) That the Council inform submitters of the decisions made on Proposed Plan Change 3A (Minimum Flow for Taieri River at Tiroiti) and complete all other related formalities under Schedule 1 RMA.**

Proposed Plan Change 3A (Minimum Flow for Taieri River at Tiroiti)

Regional Plan: Water for Otago

Incorporating Decisions of Council

ISBN 978-0-478-37602-9



11 DECEMBER 2010

Table of Contents

Chapter 6:	Water Quantity	1
Chapter 12:	Rules: Water Use and Management	5
Schedule 2:	Schedule of specified restrictions on the exercise of permits to take surface water	8
Maps Section B:	Minimum Flow Catchment Boundaries and Monitoring Sites	9
	Consequential and Minor Changes	11

Chapter, schedule and map headings relate to those in the operative Regional Plan: Water for Otago

The base document used is the Regional Plan: Water for Otago (1 March 2010) incorporating Council decisions on Proposed Plan Change 1C: Water Allocation and Use (released on 10 April 2010) for ease of reading. The period for appeals to Council's decisions on Proposed Plan Change 1C has closed, and six appeals have been lodged with the Environment Court. Any effect on Proposed Plan Change 3A of appeals (on the basis of submissions) is expected to be nil.

The proposed plan change incorporating the recommended amendment is shown as underlined and proposed deletions are shown as ~~struck out~~.

6

Water Quantity

...

6.4 Policies applying to the management of the taking of water

...

- 6.4.5 The minimum flows established by Policies 6.4.3, 6.4.4, 6.4.6, 6.4.9 and 6.4.10 will apply to resource consents for the taking of water, as follows:**
- (a) In the case of new takes applied for after 28 February 1998, upon granting of the consent; and**
 - (b) In the case of any resource consent to take surface water from within the Taieri above Paerau and between Sutton and Outram, Shag, Kakanui, Water of Leith, Lake Hayes, Waitahuna, Trotters, Waianakarua and Lake Tuakitoto catchment areas as defined in Schedule 2A, subject to the review of consent conditions under Sections 128 to 132 of the Resource Management Act; and**
 - (c) In the case of any existing resource consent to take surface water from the Luggate catchment area, Manuherikia catchment area (upstream of Ophir) and the Taieri catchment areas Paerau to Waipiata, and Waipiata to Tiroiti and Tiroiti to Sutton, as defined in Schedule 2A, upon collective review of consent conditions within those catchments under Sections 128 to 132 of the Resource Management Act; and**
 - (d) In the case of any existing resource consent to take surface water within a catchment area not specified in Schedule 2A, upon the establishment of a minimum flow set for the water body by a plan change, subject to the review of consent conditions under Sections 128 to 132 of the Resource Management Act.**

Explanation

This policy provides for the application of minimum flows to consents as follows:

1. New takes are subject to minimum flow provisions when the consent is granted.
2. For resource consents to take from rivers within catchments specified in Schedule 2A, except for the Luggate, Manuherikia (upstream of Ophir) and the Taieri between Paerau and ~~Waipiata, and between Waipiata and Sutton~~, the minimum flow provisions apply, subject to the review of consent conditions under Sections 128 to 132 of the RMA.
3. For the Luggate, Manuherikia (upstream of Ophir) and the Taieri between Paerau and ~~Waipiata, and between Waipiata and Sutton~~, the minimum flows will not apply until after a collective review of the consents in the catchments. This will occur before 2021 if there is agreement by the holders of mining privileges (deemed permits) to adhere to the minimum flows, or on the expiry of the mining privileges on 2 October 2021. Where environmental benefit will result from applying minimum flows to any resource consents (other than deemed permits) in these catchments, the review of those resource consent conditions may also occur earlier.
4. For resource consents to take from rivers within catchments not specified in Schedule 2A, the minimum flow provisions will apply from the operative date of a plan change setting the minimum flow for the river, subject to the review of consent conditions under Sections 128 to 132 of the RMA.

Reviews under Section 128 of the Resource Management Act will be undertaken simultaneously on all reviewable takes within each catchment, in the interests of equity.

In the case of mining privileges in respect of water (deemed permits, see Appendix 2) the Resource Management Act provides for their continuation without restriction, unless compensation is made, until they expire in 2021. However, arrangements for the conversion of such permits to resource consents may be developed before that time. Alternatively, arrangements for voluntary adherence by deemed permit holders to the minimum flows may occur. Under voluntary arrangements, or conversion of deemed permits to resource consents, or in 2021, these resource consents or deemed permits will become subject to the minimum flows established by this Plan.

The process of consent review must be completed by 2 October 2021, allowing coordination with the review of any deemed permits that may be operating in an area.

Principal reasons for adopting

This policy is adopted to enable the minimum flow provisions of the Plan to be applied as soon as practicable to existing resource consents to take water.

In the Luggate catchment area, Manuherikia catchment area (upstream of Ophir) and Taieri catchment areas between Paerau and ~~Waipiata, and between Waipiata and~~ Sutton, there is a very high proportion of mining privileges. Therefore the application of minimum flows to resource consents may be timed to coincide with their application to deemed permits (either through voluntary methods or in 2021). Where environmental benefit will result from applying minimum flows to any resource consents (other than deemed permits) in these catchments, the review of those resource consent conditions may also occur earlier.

In unscheduled catchments the minimum flows, once established and set by a plan change, will be applied to the reviewable consents in those catchments.

This will ensure that restricting water takes will result in actual environmental benefits.

...

12

Rules: Water Use and Management

...

12.1 The taking and use of surface water

...

12.1.4 Restricted discretionary activities: Resource consent required

...

12.1.4.4 Taking and use of surface water as primary allocation applied for prior to 28 February 1998 in the following Schedule 2A catchments:

Luggate Catchment (Map B1a),

Manuherikia Catchment Upstream of Ophir (Maps B2 and B4),

Taieri Catchment Paerau to Waipiata (Maps B2 and B4), ~~and~~

Taieri Catchment Waipiata to Tiroiti (Maps B2, B3 and B4); and Taieri Catchment Tiroiti to Sutton (Maps B3 and B4):

- (i) This rule applies to the taking of surface water, as primary allocation, in the above catchment areas, if the taking was the subject of a resource consent or other authority:
 - (a) Granted before 28 February 1998, or
 - (b) Granted after 28 February 1998, but was applied for prior to 28 February 1998; or
 - (c) Granted to replace a resource consent or authority of the kind referred to in paragraph (a) or (b).
- (ii) The taking of surface water to which this rule applies is a **restricted discretionary** activity. The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.1.4.8.
- (iii) The minimum flows set out in Schedule 2A of this Plan for the above catchments shall affect the exercise of every resource consent or other authority, of the kind referred to in paragraph (i) of this rule, in the Luggate catchment area, Manuherikia catchment area (upstream of Ophir) and Taieri catchment areas Paerau to Waipiata, Waipiata to Tiroiti and Tiroiti to Sutton, upon review of consent conditions.
- (iv) The conditions of all such consents will be reviewed by the Otago Regional Council under Sections 128 to 132 of the Act to enable the minimum flows set by Schedule 2A to be met, the volume and rate of take to be measured in accordance with Policy 6.4.16 and the taking to be subject to Rule 12.1.4.9.
- (v) The minimum flows set in Schedule 2A for the Luggate catchment area, Manuherikia catchment area (upstream of

R U L E S : W A T E R U S E A N D M A N A G E M E N T

Ophir) and Taieri catchment areas Paerau to Waipiata, Waipiata to Tiroiti and Tiroiti to Sutton, shall not apply to any consents referred to in clause (i), paragraphs (a) to (c) of this rule until the review of consent conditions set out in clause (iv) of this rule occurs.

...

SCHEDULE 2: SPECIFIED RESTRICTIONS ON THE EXERCISE OF PERMITS TO TAKE SURFACE WATER

2 Schedule of specified restrictions on the exercise of permits to take surface water

...

2A Schedule of specific minimum flows for primary allocation takes in accordance with Policy 6.4.3, and primary allocation limits in accordance with Policy 6.4.2(a)(i)

...

Catchment See Maps B1-B5	Monitoring Site (with MS number) See Maps B1-B5	Minimum flow (litres per second – instantaneous flow)	Primary Allocation Limits in accord with Policy 6.4.2(a) (litres per second – instantaneous flow)
-----------------------------	---	--	--

...

Taieri River upstream of Paerau	Paerau Dam (MS 5a)	850	4860 litres/sec <i>Taieri River catchment from mouth to headwaters.</i>
Taieri River catchment between Paerau and Waipiata	Taieri River at Waipiata (MS 5)	1000	
<u>Taieri River catchment between Waipiata and Tiroiti</u>	<u>Taieri River at Tiroiti (MS 5b)</u>	<u>1100</u>	
Taieri River catchment between Waipiata Tiroiti and Sutton	Taieri River at Sutton (MS 6)	1250	
Taieri River catchment between Sutton and Outram	Taieri River at Outram (MS 6a)	2500	

...

Maps Section B: Proposed change to four maps.

2: Proposed change to Maps B2, B3, B4 and Map B Index

See following page. Proposed amended Map B3 is shown.

Maps B2, B4 and the Map B Index will align with Map B3 at the time of Plan reprint.

Proposed amended Map B3: Proposed catchment area identified and named, and the proposed Monitoring Site added.

Minimum Flow Catchment Boundaries and Monitoring Sites



Map B3



Map Scale
1:250,000

Key

- Regional Boundary
- Monitoring Site
- Proposed Monitoring Site
- Catchment Boundary
- Catchment Boundary proposed for deletion
- Proposed Catchment Boundary

Approval for reproduction by the Otago Regional Council in terms of LINZ Map Licence No. 23732.002. Crown Copyright Reserved.

Key Map



Proposed Plan Change 3A (Minimum flow for Taieri River at Tiroiti) 26 June 2010



Consequential and minor changes

Operative Plan Provision	Operative Plan Page number	Detail of consequential or minor change								
Page numbers	All pages	<i>Change page numbers.</i>								
Footer	All pages	<i>Change each footer to read:</i> Regional Plan: Water for Otago (Updated to 1 March 2010 <operative date to be inserted>)								
Title page	Page i	<i>Change the date to read:</i> Updated to 1 March 2010 <operative date to be inserted>								
New ISBN number	Page i (for Plan) Index (for Maps)	<i>Change the ISBN numbers to read:</i> ISBN 978-0-478-37602-9 <New ISBN numbers to be obtained and inserted> ISBN 978-0-478-37602-9 <New ISBN numbers to be obtained and inserted>								
Table of Key Events	Page iv	<i>Add the following to the end of the table:</i> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Key event</th> <th style="text-align: center;">Date notified</th> <th style="text-align: center;">Date decisions released</th> <th style="text-align: center;">Date operative</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><u>Plan Change 3A (Minimum Flow for Taieri River at Tiroiti) to the Regional Plan: Water for Otago</u></td> <td style="text-align: center;"><u>26 June 2010</u></td> <td style="text-align: center;"><u>11 December 2010</u></td> <td style="text-align: center;"><u><Date to be inserted></u></td> </tr> </tbody> </table>	Key event	Date notified	Date decisions released	Date operative	<u>Plan Change 3A (Minimum Flow for Taieri River at Tiroiti) to the Regional Plan: Water for Otago</u>	<u>26 June 2010</u>	<u>11 December 2010</u>	<u><Date to be inserted></u>
Key event	Date notified	Date decisions released	Date operative							
<u>Plan Change 3A (Minimum Flow for Taieri River at Tiroiti) to the Regional Plan: Water for Otago</u>	<u>26 June 2010</u>	<u>11 December 2010</u>	<u><Date to be inserted></u>							
Table of Contents	Pages vi–xi	<i>Change page numbers.</i>								
Section 1.4 Process of Plan preparation	Page 5	<u>Proposed Plan Change 3A (Minimum Flow for Taieri River at Tiroiti) was notified on 26 June 2010 to introduce an additional minimum flow monitoring site at Tiroiti. A total of six submissions and two further submissions were received. Following the hearing, decisions on the submissions received were released on 11 December 2010. Plan Change 3A (Minimum Flow for Taieri River at Tiroiti) was made operative on <date to be inserted>.</u>								

C O N S E Q U E N T I A L A N D M I N O R C H A N G E S

Operative Plan Provision	Operative Plan Page number	Detail of consequential or minor change
Map B Index	Not applicable	<p><i>Amend the Taieri River, Waipiata to Sutton catchment area boundaries to Map B Index (see Attachment 3).</i></p> <p><i>Change the date to read:</i></p> <p>Updated to 1 March 2010 <operative date to be inserted</p>
Maps B2, B3 and B4	Not applicable	<p><i>Change the date to read:</i></p> <p>Updated to 1 March 2010 <operative date to be inserted</p>
Map B3	Not applicable	<p><i>Correct the catchment boundary for the Cap Burn to show it within the Tiroiti to Sutton catchment boundary.</i></p>