

Proposed Plan Change 6AA

Regional Plan: Water for Otago

Section 32 Evaluation Report Consideration of alternatives, benefits and costs

*This Section 32 Evaluation Report should be read in conjunction with
Proposed Plan Change 6AA.*

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Abbreviations

ORC	Otago Regional Council
NPSFM	National Policy Statement for Freshwater Management 2014 (amended 2017)
PC6A	Plan Change 6A (Water Quality) to the Regional Plan: Water for Otago
PORPS	Partially operative Regional Policy Statement for Otago
PRPS	Proposed RPS – Decisions version
RPS	Regional Policy Statement for Otago 1998
RMA	Resource Management Act 1991
Water Plan	Regional Plan: Water for Otago

Executive Summary

In 2014, Otago Regional Council (ORC) introduced a new set of rules managing discharges from land uses (predominately rural land uses). Those rules which come into force on 1 April 2020 include conditions on the contaminant concentration of discharges and nitrogen leaching.

ORC now considers that the rules are ambiguous, unenforceable and uncertain and may result in a large number of land users having to apply for discharge consents. Because ORC is in the process of reviewing the Regional Plan: Water for Otago (Water Plan) to give effect to the National Policy Statement for Freshwater Management 2014 (amended 2017) (NPSFM), issuing a large number of consents under an uncertain and now 'temporary' framework is not considered appropriate, nor effective in making environmental gains. Consenting will likely undermine the effectiveness of the revised rule framework to be developed as part of the full review of the Water Plan and could limit the ORC's ability to give effect to the objectives of the NPSFM.

ORC now proposes to introduce a proposed plan change (Plan Change 6AA) that will result in the commencement date of relevant discharge and nitrogen leaching rules being extended to 1 April 2026, to allow time to develop a more robust water management framework that implements and gives full effect to the NPSFM. It is expected that the full review of the Water Plan will be completed, and new planning provisions will be operative, before 1 April 2026.

Introduction

In October 2018, ORC formally approved the commencement of a full review of the Water Plan to satisfy the plan review requirements under section 79 of the Resource Management Act 1991 (RMA); give full effect to the NPSFM; and take a more localised approach to water and land management, based on Freshwater Management Units (FMUs).

While the Progressive Implementation Programme (P.I.P.) is implemented and the full review undertaken, ORC will continue to implement the operative Water Plan.¹ It is important to ensure that the Water Plan still delivers an effective and efficient water management framework, and that its implementation supports (and does not undermine) the full plan review and the objectives of the NPSFM.

Plan Change 6AA is the first of two plan changes which will address significant issues with the operative Water Plan and strengthen the Plan's existing policy framework, in advance of the development of a comprehensive plan review.²

This report outlines the purpose of Plan Change 6AA, and evaluates the plan change and alternative options, as required by Section 32 of the RMA. It should be read in conjunction with the Proposed Plan Change.

¹ As is required by section 84(1) of the RMA. Section 84(1) states that "*While a policy statement or a plan is operative, the regional council or territorial authority concerned, and every consent authority, shall observe and, to the extent of its authority, enforce the observance of the policy statement or plan.*"

² In early 2020 ORC will notify a plan change to strengthen the Water Plan's discharge rules, supported by a non-regulatory framework.

Planning context

Key documents

The Water Plan is prepared under the RMA and must give effect to all relevant National Policy Statements and the Regional Policy Statement.

Plan Change 6A (Water Quality), which introduced the rules now subject to proposed plan change 6AA, became operative in 2014. It was prepared under the National Policy Statement for Freshwater Management 2011; and its preparation had regard to all relevant management plans and strategies of the time, and to the Kai Tahu Ki Otago Natural Resource Management Plan (2005). The National Policy Statement for Renewable Electricity Generation 2011, the National Policy Statement on Electricity Transmission 2008 and the New Zealand Coastal Policy Statement 2010 were fully operative at the time of the plan change preparation.

Since 2014, there have been several changes to the planning context:

- The National Policy Statement for Freshwater Management was amended twice;
- The Regional Policy Statement for Otago was reviewed;
- The National Policy Statement on Urban Development Capacity (2016) (NPSUDC) and the National Environmental Standards for Plantation Forestry (2018) (NES-PF) were enacted.

The NPSUDC is not relevant to the management of discharges. The other national policy statements are not relevant either. The NES-PF sets requirements for the management of forestry activities at a national level. Schedule 17 of the Water Plan specifies the rules that apply to forestry activities in Otago.

Changes to the NPSFM since its gazettal have focused on water quality objectives, the process to set locally-based freshwater objectives, and on managing cumulative effects. The review of the Otago Regional Policy Statement (RPS) has not been fully completed and the provisions most relevant to water management are not yet operative. The proposed RPS provisions mostly focus on the values and objectives for water quality, and provide little direction on the rule framework, besides:

- The Partially Operative Regional Policy Statement's (PORPS) Policy 5.4.1 of on the management of "objectionable discharges",
- The Proposed RPS – Decision version's (PRPS) proposed policies on the protection of the values of outstanding water bodies (Policies 3.2.13 and 3.2.14).

A full review of the Water Plan will ensure alignment with all relevant requirements, and give full effect to the NPSFM, and any subsequent amendments as a result of proposed changes to the NPSFM, and proposed RPS. It is anticipated that the full review of the Water Plan will be completed, and new planning provisions will be operative, by April 2026.

The NPSFM and the RPS and PRPS do not set directions over what discharge controls regional councils should put in place to achieve objectives.

Objectives for water quality

The NPSFM seeks to maintain or improve water quality and support the values of water bodies, while enabling people and communities to provide for their wellbeing (Objectives A1 to A4). The NPSFM puts a specific emphasis on ecosystem health, health for recreation (Objective A1), and the suitability of water for swimming, while requiring regional councils to manage water for any other relevant value (called national values) including for example natural form and character, fishing, mahinga kai, animal drinking water, water supply, hydroelectricity generation, transport.

Otago's RPS, PORPS and PRPS, and its Water Plan reflect the same general direction overall of maintaining and/or improving water quality while supporting values of water bodies. The Water Plan in particular seeks that:

- Water quality is maintained or improved (Objective 7.A.1) and
- Water quality supports the natural and human use values of water (Objective 7.A.2) and
- Discharges are enabled when sustainable (Objectives 7.A.2 and 7.A.3).

As specified in Policy 7.B.1, Schedule 15 of the Water Plan sets contaminant concentration objectives and targets for Otago's rivers and lakes, which are based on standards for ecosystem health and primary contact recreation. It provides measurable water quality indicators that can inform consent decisions over nutrient allocation, when compared with water quality information.

Water quality policies and rules

The policies and rules in the Water Plan are expected to achieve the water quality objectives outlined above. The Water Plan focuses on the discharges only, and sets distinct management regimes for:

- Discharges of human sewage (rules in section 12.A);
- Industrial discharges, discharges of hazardous substances, and of urban stormwater (rules in section 12.B); and
- All other discharges (rules in section 12.C).

Section 12.C predominately targets discharges from rural land uses. It sets:

- Prohibited activity rules to prevent objectionable discharges and high-risk discharges, such as discharges from farm effluent systems or from poorly managed land disturbance;
- Permitted activity rules, setting a baseline beyond which discharge consents must be applied for.

The rules for discharges are based on:

- Discharges' visual effects (changes to colour or clarity of the water; appearance of floatable materials, oil or grease film, scum or foam in the water) and odour;
- Other quantitative indicators, including discharge contaminant concentration thresholds (rule 12.C.1.1A – Schedule 16) and maximum nitrogen leaching rates (rule 12.C.1.3 – Overseer).

The rules have provided for a transition period for land users to comply with the relevant discharge contaminant concentration thresholds and nitrogen leaching rates, with those requirements due to come into force on 1 April 2020.

Consultation

In August 2019, ORC sent a consultation draft of Plan Change 6AA, and a draft Section 32 evaluation report, to the Minister for the Environment, the Department of Conservation (DoC), the Ministry for Primary Industries, Otago's city and district councils, and to Te Rūnanga o Ōtākou, Kāti Huirapa ki

Puketeraki, Te Rūnanga o Moeraki and Hokonui Rūnanga (through Aukaha and Te Ao Marama), in accordance with Clauses 3 and 4A of Schedule 1 to the RMA. In September 2019 ORC also sent a consultation draft and draft Section 32 evaluation report to Te Rūnanga o Ngāi Tahu, in accordance with Clause 4A of Schedule 1 to the RMA.

For completeness, the consultation version of proposed Plan Change 6AA proposed to amend the relevant provisions from 1 April 2020 to 1 April 2023.

Feedback on the consultation draft was received from the Dunedin City Council (DCC), DoC and Iwi authorities. DCC had no specific comments on proposed Plan Change 6AA but expressed a strong desire to work collaboratively on the development of the future plan change that will address water quality issues. DoC did not support the plan change proposal, indicating a preference for a plan change that seeks to clarify the implementation of the water quality rules. Iwi authorities were generally supportive of the proposed plan change but stated that they did not want to further delay the proposed 2023 deadline at which provisions associated with management of discharges of water and contaminants must be met, so that improvements to water quality can be made without further delay.

A more detailed overview of the feedback received from Iwi authorities and other statutory stakeholders during the different stages of pre-notification consultation is attached to this Section 32 report in Appendix 1.

No amendments were made to the proposed plan change in response to the feedback received. However, further legal review following the pre-notification consultation stages identified that the proposed 1 April 2023 deadline in the consultation draft of Plan Change 6AA poses a risk that a large number of discharges would still need to be consented in 2023 if the changes to the planning framework are not in place, and operative, by 1 April 2023. This would negate many of the benefits of undertaking Plan Change 6AA, so to address this risk ORC now proposes to extend the commencement date of relevant discharge and nitrogen leaching rules in the notified plan change from 1 April 2023 to 1 April 2026. It is expected that the full review of the Water Plan will be completed, and new planning provisions will be operative, before 1 April 2026.

Current issues with the Water Plan and purpose of the Plan Change 6AA

As they currently stand, Policy 7.D.2, Rules 12.C.1.1(g), 12.C.1.1A (Schedule 16) and 12.C.1.3 (Overseer) are uncertain, unenforceable and ambiguous. In particular:

- Land users cannot, in practice, ensure that the discharge contaminant thresholds set out in Schedule 16 are met everywhere on their property, at all times when the flow at the relevant flow sites is below median flow.
- There are practical difficulties in locating where diffuse discharges should be sampled to check compliance with Rule 12.C.1.1A (Schedule 16);
- Rule 12.C.1.3 (Overseer) does not specify a time scale when nitrogen leaching rates should be calculated.
- The nitrogen leaching rate must be estimated using Overseer version 6. That version of Overseer no longer exists. The rule does not address Overseer version changes, and land users cannot foresee (or calculate) whether their operations would remain permitted should a version change occur.

As a result, these provisions will not be able to deliver the expected water quality outcomes, nor will they necessarily drive good farm management practices.

A large number of consent applications can be expected to be lodged in advance of Rules 12.C.1.1(g), 12.C.1.1A (Schedule 16) and 12.C.1.3 (Overseer) coming in to force. Relying on consent applications for the management of water quality is neither effective nor efficient. In particular:

- Many land users are likely to seek consents to ensure they can continue their activities, even when their discharges have minor environmental effects. This comes at a cost for those land users.
- The discharge policies in the Water Plan are vague and do not provide much guidance over when consents should be granted and under what conditions. Without strong policy guidance, consent decisions cannot adequately manage the cumulative effects of discharges on water quality.

Moreover, consents are not affected by subsequent changes to rules and policies during their terms, unless Council calls them in for a review. This means that requiring and granting discharge consents ahead of the coming review of the Water Plan will likely undermine the effectiveness of the revised rule framework.

It is anticipated that the full review of the Water Plan will be not be completed, and new planning provisions be operative, until December 2025. Accordingly, these provisions which come into force on 1 April 2020 would frustrate ORC's planned implementation of the NPSFM and limit its ability to achieve the objectives of the NPSFM.

Plan Change 6AA seeks to ensure that Policy 7.D.2, Rules 12.C.1.1(g), 12.C.1.1A (Schedule 16) and 12.C.1.3 (Overseer) do not undermine the effectiveness of the rule framework to be developed as part of the full review of the Water Plan; and do not result in unnecessary consenting costs.

Summary of proposed changes

Plan Change 6AA proposes to postpone the date at which conditions controlling discharge contaminant concentration and on nitrogen leaching come into force, from 1 April 2020 to 1 April 2026.

This change affects:

- Policy 7.D.2
- Rule 12.C.1.1
- Rule 12.C.1.1A
- Rule 12.C.1.3 and
- Schedule 16A

No other change to the Water Plan is proposed as part of Plan Change 6AA.

It is expected that the full review of the Water Plan will be completed, and new planning provisions will be operative, before 1 April 2026 which will introduce a more certain and robust water management framework to manage discharges from land use.

Section 32 of the RMA

Plan Change 6AA is a plan change to an existing regional plan (the Water Plan) that was prepared by the ORC under the RMA. As part of the development of Plan Change 6AA ORC is required to examine whether the proposal is the most appropriate way of achieving the objectives of the Water Plan, in accordance with Section 32 of the RMA.

Section 32 of the RMA requires that an evaluation report for an amending proposal (in this case Plan Change 6AA) must:

- Examine the extent to which the purpose of Plan Change 6AA is the most appropriate way to achieve the purpose of the RMA;
- Examine whether the provisions in Plan Change 6AA are the most appropriate way to achieve the objectives of the Water Plan and the purpose of Plan Change 6AA, by:
 - Identifying other reasonably practicable options for achieving the objectives of the Water Plan and the purpose of Plan Change 6AA;
 - Assessing the efficiency and effectiveness of proposed provisions for achieving the objectives of the Water Plan and the purpose of Plan Change 6AA; and
 - Summarising the reasoning for deciding on the proposed provisions.

When assessing the efficiency and effectiveness of the proposed provisions the following assessment criteria must also be satisfied:

- The benefits and costs of the environmental, economic, social, and cultural effects anticipated from the implementation of the provisions must be identified and assessed;
 - The benefits and costs are to be quantified (if practicable); and
 - The risks of acting or not acting must be assessed where there is insufficient or uncertain information.

The objectives of the existing plan (i.e., the Water Plan) must be considered where they are relevant to the purpose of the plan change and would remain if the plan change took effect.

The evaluation report must also summarise any relevant advice from iwi authorities, including the Council's response to that advice and any provisions that are intended to give effect to the advice.

Evaluation

Section 32(1)(a) - Examination of the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of the RMA

The RMA requires an examination of whether the objectives of Plan Change 6AA (in this case, the purpose of the Plan Change³) being evaluated are the most appropriate way to achieve the purpose of the Act.⁴ The purpose of the Act is set out in section 5 of the RMA.

The purpose of Plan Change 6AA is to delay the enforceability of several uncertain and ambiguous provisions (that may result in a large number of land uses application for discharge permits) so that

³ RMA, s32(6)

⁴ RMA, s32(1)(a)

they do not undermine the effectiveness of the new rule framework that will be developed as part of the full Plan review.

Plan Change 6AA has been designed to promote the sustainable management of natural and physical resources by providing additional time for a new framework to be put in place. The status quo of retaining the enforceability date of rules by 1 April 2020 will not necessarily better promote the sustainable management of natural and physical resources. As set out above, the uncertain, unenforceable and ambiguous provisions will not be able to deliver the expected water quality outcomes, nor will they necessarily drive good farm management practices. The 2020 date would require numerous consents to be obtained which might not be necessary and may undermine the future implementation of the Water Plan (and the NPSFM).

Ultimately it is expected that the wider Plan review will incorporate a more robust water management regime that will deliver the expected water quality outcomes. In the meantime, ORC will notify a plan change to strengthen the Water Plan's discharge rules supported by a non-regulatory framework. This will be critical to ensure water quality is maintained and enhanced in the region, while the comprehensive plan review is completed.

Plan Change 6AA recognises the need to sustain the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations at a rate which enables people and communities to provide for the social, economic and cultural wellbeing. The delay to the enforceability of the provisions will remove the immediate risk of many land users having to apply for short term consents for minor discharges. This will remove unnecessary consenting costs in circumstances where a new rule framework will be introduced by the comprehensive plan review.

Plan Change 6AA will enable this rule framework to be developed effectively by not allowing the existing discharge provisions to undermine the process. The purpose of Plan Change 6AA has considered how adverse effects on the environment are avoided and mitigated.

Overall, the purpose of Plan Change 6AA is an appropriate way to promote the sustainable management of natural and physical resources in relation to managing discharges from land uses (predominately rural land uses).

Section 32(1)(b) - Examination of whether the provisions in the proposal are the most appropriate way to achieve the objectives of the Plan and the purpose of Plan Change 6AA

Section 32(1)(b) of the RMA requires an examination of whether the provisions of Plan Change 6AA are the most appropriate way of achieving the Objectives of the Water Plan⁵ and, for an amending proposal that does not include objectives, the examination must also consider if the provisions of the plan change are the most appropriate way to achieve the purpose of the plan change.⁶

Most appropriate way of achieving the objectives of the Water Plan

The Water Plan Objectives that are relevant to Plan Change 6AA are Objectives 7.A.1, 7.A.2, 7.A.3.:

7.A.1 To maintain water quality in Otago lakes, rivers, wetlands, and groundwater, but enhance water quality where it is degraded.

⁵ RMA s32(1)(b) and s32(3)(b)

⁶ RMA s32(1)(b) and s32(3)(a)

7.A.2 To enable the discharge of water or contaminants to water or land, in a way that maintains water quality and supports natural and human use values, including Kāi Tahu values.

7.A.3 To have individuals and communities manage their discharges to reduce adverse effects, including cumulative effects, on water quality.

Plan Change 6AA appropriately achieves these objectives. It is acknowledged that the plan change itself does not strengthen provisions within the Water Plan to maintain and enhance water quality in Otago. Ultimately it is expected that the wider Plan review will incorporate a more robust water management regime that will achieve the water quality objectives. However, Plan Change 6AA will mean that the existing provisions of the Water Plan will not undermine the effectiveness of the new rule framework that will be developed as part of the full Plan review.

Further, ORC will notify a plan change to strengthen the Water Plan's discharge rules, supported by a non-regulatory framework. This will be critical to ensure water quality is maintained and enhanced in the region, while the comprehensive plan review is completed.

Options assessment

When considering whether the provisions of the Plan Change 6AA are the most appropriate way to achieve the purpose of the plan change, section 32(1)(b) of the RMA requires an examination of reasonably practicable options for achieving the objectives of the Water Plan and the purpose of Plan Change 6AA. This involves assessing the efficiency and effectiveness of proposed provisions and summarising the reasoning for deciding on the proposed provisions.

A number of reasonably practicable options were identified that could manage the issues outlined above, and achieve the purpose of Plan Change 6AA. These were:

- Clarifying the Water Plan's discharge policies, to ensure the cumulative effects of consented discharges are well managed (Option 1);
- Delaying the date at which Policy 7.D.2, Rules 12.C.1.1(g), 12.C.1.1A (Schedule 16) and 12.C.1.3 (Overseer) come into force (Option 2); or
- Revoking Policy 7.D.2, Rules 12.C.1.1(g), 12.C.1.1A (Schedule 16) and 12.C.1.3 (Overseer) (Option 3).

These three options are evaluated in the tables below.

OPTION 1: STRONGER POLICY FRAMEWORK

In this option, the Water Plan's rules remain unchanged, while its policies are strengthened and provide more guidance over:

- The information that should be provided in resource consent applications;
- The circumstances in which consents should be granted and;
- The consent conditions that should be considered.

In order to ensure that granting consents does not undermine the effectiveness of the coming full plan review, the consenting regime will have to rely on short-term consents.

EXPECTED EFFECTIVENESS

Although a stronger policy framework will likely enhance the effectiveness of the consenting regime in achieving the Water Plan's water quality objectives, it will not effectively deal with the fact that consent applications will need to be applied for, and granted, for minor discharges.

Relying on consents with short duration adds to consenting costs over time, as it requires consents to be renewed more frequently.

ORC expects to receive a large number of consent applications leading up to and following April 2020. It will be challenging to develop, consult on, notify and make operative a robust policy framework in that timeframe; and any consent application received before the plan change is made operative will require resource consent under the existing policy framework.

BENEFITS	COSTS
Environmental	
<ul style="list-style-type: none"> ▪ Provides an opportunity to at least “lock in” existing good farming practices ▪ Consents can provide a “path forward” and allow the transition towards more sustainable practices ▪ Allows better information and data on land use and discharge management practices. 	<ul style="list-style-type: none"> ▪ Short-term consents usually do not require significant changes to discharge and land use management practices and focus on preparing the ground to set up adequate conditions for longer term consents: the consenting regime is unlikely to bring about rapid significant environmental improvements.
Economic	
<ul style="list-style-type: none"> ▪ Growing demand for planners and farm consultants to prepare and process the growing number of consent applications There may not be enough experts to meet the demand created by consent applications. 	<ul style="list-style-type: none"> ▪ Likely to exacerbate the costs of unnecessary consents ▪ Short-term consents do not resolve uncertainty over whether the discharge will be allowed to continue over time: <ul style="list-style-type: none"> ○ This could potentially impact on rural land users’ access to finance, either for productivity gains or environmentally sustainable infrastructure ○ This could also affect farms’ market value ▪ Consent applications divert funds that could potentially be used for on the ground mitigation.
Social	
<p>Consenting is managing each discharge separately and does not leave a role for catchment groups to coordinate and facilitate the management of discharges at a catchment scale</p>	
Cultural	
<ul style="list-style-type: none"> ▪ A consenting regime will enable iwi’s involvement in water quality management at a finer scale, for notified consent applications 	<ul style="list-style-type: none"> ▪ Involving iwi in decisions on individual discharges detracts them from getting involved at a more strategic level and could put stress on their planning advisors.

OPTION 2: DELAYING ENFORCEABILITY OF RELEVANT PROVISIONS

In this option, the date at which Policy 7.D.2, Rules 12.C.1.1(g), 12.C.1.1A (Schedule 16) and 12.C.1.3 (Overseer) come into force is delayed by 6 years, until 1 April 2026. The requirement for farmers to collect nutrient input data and make it available to ORC is retained (Rule 12.C.1.3).

EXPECTED EFFECTIVENESS

Delaying Policy 7.D.2, Rules 12.C.1.1(g), 12.C.1.1A and 12.C.1.3 coming into force removes the immediate risk of receiving a large number of consent applications which would be for unclear, or ambiguous activities. It also ensures an improved framework is introduced before consent applications are lodged. As a result of this option:

- The Water Plan’s rules do not result in unnecessary consenting costs;
- ORC will have additional time to address the uncertainty and ambiguity of current rules; and
- Discharge consents do not undermine the effectiveness of the future revised rule framework.

This option does not strengthen the Plan’s rules to the extent required to fully achieve the Plan’s water quality objectives and implements the NPSFM.

BENEFITS	COSTS
Environmental	
<ul style="list-style-type: none"> ▪ Allows more time to develop a more effective rule framework, for better water quality outcomes; and to adapt to new Central Government regulation ▪ Requires farming to keep working towards compliance with those two rules, to meet the 1 April 2026 timeline. ▪ Requires farmers to continue collecting nutrient input data and make it available to ORC 	<ul style="list-style-type: none"> ▪ Does not drive a rigorous documentation of farm management practices in Otago. ▪ Unless addressed, uncertainty over the implementation of Policy 7.D.2, Rules 12.C.1.1(g), 12.C.1.1A and 12.C.1.3 could continue to hamper discharge mitigation.
Economic	
<ul style="list-style-type: none"> ▪ Removes the immediate consenting costs for those discharges which do not meet the relevant provisions ▪ Avoids the costs of a high number of consent applications being made even for minor discharges. 	<ul style="list-style-type: none"> ▪ Some uncertainty remains over future status of rural discharges and the ability of land users to meet requirements by April 2026. This could restrict access to finance; and impact on farms’ market value
Social	
<ul style="list-style-type: none"> ▪ There is still an opportunity for catchment groups to facilitate the management of discharges at a catchment scale. ▪ Stakeholders can be involved in strategic matters 	<ul style="list-style-type: none"> ▪ Could potentially fuel a perception that ORC has not committed to addressing water quality issues.
Cultural	
<ul style="list-style-type: none"> ▪ Allows iwi’s involvement to focus on strategic matters for the future 	

OPTION 3: REVOKING RELEVANT PROVISIONS

In this option, Policy 7.D.2, Rules 12.C.1.1(g), 12.C.1.1A, 12.C.1.3 and schedule 16 are revoked; and all other discharge rules remain unchanged.

EXPECTED EFFECTIVENESS

Revoking or deleting Policy 7.D.2, Rules 12.C.1.1(g), Rules 12.C.1.1A, 12.C.1.3 and schedule 16 removes the risk of receiving a large number of consent applications before the Water Plan is reviewed and its rule framework strengthened. As a result of this option:

- The Water Plan’s rules do not result in unnecessary consenting costs;
- Discharge consents do not undermine the effectiveness of the future revised rule framework.

This option does not strengthen the Plan’s rules to the extent required to achieve the Plan’s water quality objectives.

BENEFITS	COSTS
Environmental	
<ul style="list-style-type: none"> ▪ Allows time to develop a more effective rule framework, for better water quality outcomes. 	<ul style="list-style-type: none"> ▪ Reduces obligation to keep a record of nutrient inputs. ▪ Removes drivers for better land use and discharge management practices.

Economic

- Removes the consenting costs for those discharges which do not meet the relevant provisions

Social

- There is still an opportunity for catchment groups to facilitate the management of discharges at a catchment scale.
- Stakeholders can be involved in strategic matters
- Could potentially fuel a perception that ORC has not committed to addressing water quality issues.

Cultural

- Allows iwi's involvement to focus on strategic matters for the future
- This change may not be culturally acceptable in that it removes some of the main drivers for better discharge management in the Plan.

Preferred option

Both options 2 and 3 will address the issues outlined above and achieve the purpose of Plan Change 6AA. Both carry environmental risks in that they lessen or remove short-term drivers for more sustainable land use and discharge management practices. Of these two options, Option 2 is the one that carries the lower environmental risks as it does not remove the obligation entirely. It is therefore the preferred option.

Implementing Option 2 creates uncertainty in terms of achieving water quality objectives for Otago, unless:

- Discharges rules are strengthened in the near future, or the implementation issues relating to Rules 12.C.1.1A and 12.C.1.A are resolved before 1 April 2026; and
- ORC strengthens its education programme to drive the adoption of sustainable farm management practices.

On 14 August 2019, ORC committed both to notifying a plan change to strengthen the Water Plan's discharge rules in early 2020, supported by a non-regulatory framework. This will be critical to ensure water quality is maintained and enhanced in the region, while a more robust management framework is developed.

Appendix 1

Summary of consultation undertaken in accordance with Clauses 3 and 4A of RMA Schedule 1

Consultation under Clause 3 of the First Schedule of the RMA was undertaken with the statutory stakeholders from 22 to 30 August 2019. As part of this consultation stage, a draft of the proposed Plan Change and draft Section 32 evaluation report were sent to:

- Ministry for the Environment;
- Ministry for Primary Industries, Department of Conservation;
- Te Rūnanga o Ōtākou, Kāti Huirapa ki Puketeraki, Te Rūnanga o Moeraki and Hokonui Rūnanga (through Aukaha and Te Ao Marama); and
- The five Territorial Authorities in the Region, being Dunedin City Council, Clutha District Council, Waitaki District Council, Central Otago District Council, and Queenstown-Lakes District Council).

Under Clause 4A of the First Schedule of the RMA a draft of the proposed Plan Change and draft Section 32 evaluation report was sent to Te Rūnanga o Ngāi Tahu in September 2019

It is noted that the proposal considered by the statutory parties, Iwi authorities and Nga Runanga listed above was to replace the 1 April 2020 reference in the rules to 1 April 2023, rather than the now proposed date of 1 April 2026.⁷

Responses

Responses were received from the Department of Conservation, Dunedin City Council and Nga Runanga. These are outlined below.

Department of Conservation

DoC have concerns about the proposed approach. They do not support a delay in the implementation of nutrient management limits and do not agree with the reasons for the delay. DoC would prefer a plan change to clarify the implementation of the rules along the lines of Option 1.

Dunedin City Council

The DCC had no specific comments on proposed Plan Change 6AA but expressed a strong interest in the second proposed plan change. They support a collaborative approach to addressing water quality issues and have made staff available to engage on these issues.

Runanga

Through Aukaha, feedback was received on the proposed plan change from Te Rūnanga o Ōtākou, Kāti Huirapa ki Puketeraki, Te Rūnanga o Moeraki and Hokonui Rūnanga, indicating that Ngā Rūnanga are generally supportive of a proposed change in date (to 1 April 2023) at which policies

⁷ The consultation version of Plan Change 6AA proposed to amend the relevant provisions from 1 April 2020 to 1 April 2023. This is different from the notified Plan Change 6AA, which seeks to extend the commencement date for relevant discharge and nitrogen leaching rules to 1 April 2026

and rules associated with management of discharges of water and contaminants must be met and addressing the existing reference to an out-dated version of Overseer.

Ngā Rūnanga recognise that the existing framework in the plan is not workable and are conscious of further changes that will strengthen the planning framework to achieve desired outcomes for maintaining and improving water quality across the region.

However, Ngā Rūnanga consider that the 2023 deadline for compliance by land managers that was initially proposed in the consultation version of Plan Change 6AA must be met so that improvements can be made without further delay.

Ngā Rūnanga also expressed a strong desire to be involved in the development of further policy and rule changes, as this will assist ORC with giving effect to national direction and achieving sustainable management with a Treaty compliant perspective.

These comments have been taken into account; however, it is considered that the further change in date to 1 April 2026 is necessary to ensure that the effectiveness of Plan Change 6AA is not undermined. A date of 1 April 2026 will provide enough time for the comprehensive review of the Water Plan to be completed, and any new planning provisions to be operative, by 1 April 2026.