

From the Office of the Chairperson

Our Ref: A1306728

16 December 2019

Hon David Parker
Minister for the Environment
Private Bag 18041
Parliament Buildings
Wellington 6160

Dear Minister

Investigation of Freshwater Management and Allocation Functions at Otago Regional Council under S24A of the Resource Management Act 1991: Otago Regional Council Response to Recommendations

The Otago Regional Council welcomes and accepts the position laid out in your letter of 18 November 2019, which was informed through the investigation by Professor Skelton. We acknowledge the legacy issues in our planning framework and note the Otago Regional Council has made a lot of changes in the last 18 months as an organisation. We are focused on the future and the new governance team is committed to sorting these issues out.

In your letter, you requested by 24 December 2019, a formal response to your recommendations, including an outline of how the Otago Regional Council intends to achieve the planning framework changes.

On 27 November 2019, Council convened an extraordinary meeting, and agreed to a work plan (Appendix 1) to meet the recommendations laid out in your letter. We provide further detail below.

Recommendation 1: Take all necessary steps to develop a fit for purpose freshwater management planning regime that gives effect to the relevant national instruments and sets a coherent framework for assessing all water consent applications, including those that are to replace any deemed permits

The Otago Regional Council, at its meeting on 31 October 2018, agreed to a full review of its Water Plan. This work is progressing, and a more detailed timeframe is outlined under Recommendation 2 below.

At the extraordinary Council meeting, we agreed to a review of the Regional Policy Statement for Otago to be notified by November 2020. Further detail is also outlined under Recommendation 2 below.

Other changes to our freshwater management planning regime that are being progressed include the following:

Plan Change 6AA & Omnibus Plan Change

Plan change 6AA defers the implementation of some water quality provisions in the Otago Regional Council's existing Water Plan. The Omnibus plan change will introduce into the Water Plan a suite of provisions designed to immediately remedy the deficiencies in the Water Plan in respect of water quality management and to achieve water quality improvement outcomes. They are a substitute for the existing provisions that have been found wanting. The Omnibus plan change is to be notified by 31 March 2020.

Plan Change 6AA has already been notified, a number of submissions have been filed and an Independent Hearing Commissioner has been appointed to hear the plan change. The hearing has been set down for 18 – 20 December 2019.

Recommendation 2: Develop and adopt a programme of work to achieve the following:

- **By November 2020, a complete review of the current RPS that is publicly notified, with the intention that it be made operative before the review of the LWRP is notified**

At its extraordinary meeting, Council agreed to a review of the Regional Policy Statement for Otago, to make it compliant with all current national directions in line with the timeframes you have outlined.

As noted by Professor Skelton, our ability to achieve the programme set out in your recommendations is dependent on a 'single hearing' pathway being available to Council (e.g. direct referral to the Environment Court or Board of Inquiry, or access to freshwater hearing panel or similar). We will need your assistance with this.

ORC will be endeavouring to draft a new Regional Policy Statement to include content from proposed National Direction. However, a rapidly evolving landscape does provide some risk. At this stage, we are aware of, and have submitted on the proposed National Policy Statement for Highly Productive Land, the proposed National Policy Statement for Urban Development and the proposed National Policy Statement Freshwater Management 2019. We also note the recent release of the National Policy Statement on Indigenous Biodiversity. The more certainty Otago Regional Council is able to have around content of the national direction to ensure appropriate Regional Policy Statement provisions can be drafted, the better.

- **By December 2023, a new LWRP for Otago that includes region-wide objectives, strategic policies, region-wide activity policies, and provisions for each Freshwater Management Unit, covering all the catchments within the region**

Council agreed to a full Water Plan review on 31 October 2018. As part of that process, Council adopted five Freshwater Management Units (FMUs) for the Otago Region in April 2019 – Clutha Mata-au, Taieri, North Otago, Dunedin Coastal and Catlins – as well as five sub-units or "rohe". Currently, a staged approach to FMU and rohe value and objective setting is underway. Each rohe or Freshwater Management Unit will be a "chapter" of the new Water Plan. The next focus for each Freshwater Management Unit and rohe community will be to meet and agree on local values that sit alongside national values for human and ecological health; these will inform setting objectives and water quality and quantity limits.

The Council agreed to notify this Land and Water Regional Plan by December 2023. This accords with the recommendation and the timeline indicated in the Resource Management Amendment Bill.

Council agreed that the “MAC Catchments” – Manuherekia, Arrow and Cardrona – will proceed with an expanded work programme under the Water Plan review, but that the resultant plan provisions will be inserted directly into the reviewed Land and Water Plan rather than the subject of a separate plan change in 2020, as was originally intended. This will allow a process that is more efficient in terms of community engagement, resources required, and planning outcome and will achieve compliance with all relevant national direction.

Recommendation 3: Prepare a plan change by 31 March 2020 that will provide an adequate interim planning and consenting framework to manage freshwater up until the time that new discharge and allocation limits are set in ORC’s planning framework, in line with the requirements in the National Policy Statement for Freshwater Management

At the extraordinary meeting, Council agreed to prepare and notify by 31 March 2020 a plan change to be called the Water Permits Plan Change, that will provide an adequate interim planning and consenting framework to manage freshwater up until the Otago Regional Council’s Water Plan becomes operative. The focus of this plan change is to be the processing of applications for water permits (including those to replace deemed permits).

Council agreed a number of key principles that should inform this work:

- a. The focus must remain on the bigger picture – the Water Plan review – the Water Permit plan change should be as concise as required to achieve a fit for purpose management regime.
- b. Water allocation should be based on existing water use not paper allocation.
- c. Consideration of potential impacts on existing water abstractors, and existing priorities in deemed permits.
- d. Efficiency of time and cost for both Council applicants and other parties.
- e. Opportunities for data gathering that will inform the Water Plan review should be pursued.

Council intends to hold a workshop on 7 January 2020 to discuss the content of the draft plan change and is aiming to notify in advance of your March deadline. Facilitating community engagement with this plan making process will be essential but will be tailored such that it allows Council to achieve the recommended timeframes.

Resourcing

Within current budget resourcing levels have been increasing in science, policy, consents and compliance. Council is looking at further resourcing needs with forecasts for this financial year and next providing for further staff increases in critical areas.

Further reporting

As requested, we will provide you with six monthly updates until the end of 2025, the first to be submitted by 30 April 2020 covering:

- Progress made in developing science, planning, consenting, monitoring and enforcement and land management organisational capability and capacity
- Progress in achieving your recommendations 1, 2 and 3
- A summary of freshwater resource consenting activity for the reporting period.

We would like to extend an invitation to you to attend our Council meeting scheduled for 29 April 2020 to discuss the progress the Council is making.

In conclusion, I welcome the clear framework you have set for us. The Otago Regional Council has a lot of work ahead of it. We are committed to continue working with the community every step of the way.

Yours sincerely,



Hon Marian Hobbs
Chairperson
Otago Regional Council

Appendix 1

Preparation of Fit for Purpose Planning Regime for Otago Overall Timeline

Plan Changes to Regional Plan Water for Otago

PC6AA

- December 2019 - Hearing
- January 2020 - Decision

Water Permits Plan Change

- February 2020 - Notify
- 30 November – Operative

Omnibus Plan Change

- 31 March 2020 - Notify
- June 2021 - Decision

Water Plan Review

Regional Policy Statement

- November 2020 - Notify
- January 2023 - Operative

Land & Water Regional Plan

- December 2023 – Notify
- December 2025 - Operative

Draft FMU Development Plan:

- Arrow & Cardrona 2019 – June 2020
- Manuherekiā: 2019 – December 2020
- Taieri & Catlins: June 2020 - March 2021
- North Otago & Dunedin Coast: April 2021 – February 2022
- Clutha (main stem followed by rohe): March 2022 – April 2023
- Upper Lakes
- Roxburgh
- Dunstan
- Lower Clutha