

Ministerial direction to refer the Otago Regional Council's proposed Plan Change 7 – Water Permits to its Regional Plan to the Environment Court

Having had regard to all the relevant factors, I consider that the matter requested to be called in by Otago Regional Council (ORC), being proposed Plan Change 7 – Water Permits to its regional plan, is part of a proposal of national significance. Under section 142(2) of the Resource Management Act 1991 (RMA), I direct this matter to be referred to the Environment Court for decision.

My reasons are as follows:

National Significance

I consider the matter is part of a proposal of national significance having given regard to the following relevant factors in section 142(3) of the RMA:

- a) The issues the plan change aims to address have aroused widespread public concern or interest regarding their actual or likely effect on the environment, as indicated by the Skelton Investigation;
- b) The plan change involves or is likely to involve the significant use of natural and physical resources while managing the impact of that use on the environment;
- c) The plan change affects or is likely to affect areas of national significance noting that Otago freshwater catchments provide a habitat for a suite of nationally important non-migratory Galaxias taxas;
- d) The plan change is part of the ORC's programme to give effect to the National Policy Statement on Freshwater Management;
- e) There is also a relationship between the matter and the National Policy Statement – Renewable Energy Generation (NPS-REG) given that that Trustpower, Contract Energy and Pioneer Energy hold either deemed permits or other water permits in relation to renewable energy generation;
- f) Failure to implement the plan change has the potential to result in significant and irreversible changes to the environment;
- g) The plan change is or is likely to be significant in terms of section 8 of the RMA given it is likely to be of high interest to Iwi because of the significance of freshwater management to Māori; and
- h) The plan change will affect more than one district given that it will apply across the whole Otago region.

Direction to the Environment Court

I direct that proposed Plan Change 7 – Water Permits be referred to the Environment Court for decision because:

- a) Calling in the plan change as part of a proposal of national significance would:
 - i. assist the Otago Regional Council by allowing its staff to focus on developing a new Land and Water Regional Plan; and
 - ii. avoid potential delays associated with the Schedule 1 process of the RMA that could complicate the development of a new Land and Water Regional Plan.
- b) The current COVID-19 situation would make the appointment of suitable members to a board of inquiry difficult in a short timeframe whereas the Environment Court process would provide surety in terms of progressing a decision on the matter.

In reaching my decision I considered:

- a) The Environmental Protection Authority recommendation that I refer the matter to the Environment Court;
- b) The views of the Otago Regional Council, being the applicant and the relevant local authority that would have processed and decided the matter if I had not directed that it be referred to the Environment Court for decision; and
- c) The capacity of the Otago Regional Council to process the matter.

Dated at Auckland this 8th day of April 2020

A handwritten signature in blue ink, appearing to read 'David Parker', is positioned above the printed name.

Hon David Parker
Minister for the Environment