

Deemed Permit Forum Questions and Answers

Affected Parties

What is the process for working through a disagreement between a water consent applicant and one or more affected parties?

Discussion, discussion and discussion. Talking together and sharing ideas and opinions is the most effective way to find common and acceptable solutions to differences. If no agreement can be made, the consenting process is designed to address any differences when an application is notified to affected parties. They have an opportunity to make a submission detailing their concerns about the proposed activity. Opposing views, described within submissions, can be presented to a hearing panel that will make a decision to approve or decline the application after considering the evidence present by all parties.

Process

There is too much uncertainty in terms of how much water will be allocated through this process to have confidence to invest in efficiency – one is dependent on the other.

The Water Plan aims to provide continued access to previously taken water– and increased irrigation coverage resulting from more efficient application technology remains as a benefit to the irrigator. Future takes will have measurement and minimum flow constraints which will define the actual take and limit taking water during low flows.

Why would you renew now as opposed to later – we are going to get a lower allocation anyway.

The future, up to 35 years, access to water will be known sooner, so farm management and investment decisions can be made.

Uncertainty relating to water access will be removed.

Unintended delays in lodging an application within three months of the 2021 deadline will mean a deemed permit cannot be replaced with a new permit, and the allocated water will be lost. .

Is economic effect taken into account by ORC and affected parties when consent is applied for?

Applicants are required to provide information such as: previous taking records; the rate, timing and volume of proposed take; need for, method and purpose of take; impact on other users of the source water body and other sources; and how the take is to be worked with other water users. In terms of access to one water body compared with another, issues around the cost of abstracting and distributing the water are considered.

How do we determine efficient versus inefficient use of water? What is the acceptable amount of headroom?

The water plan (in relation to efficient use of water) refers to: the quantity of water granted being that required for the intended purpose of use considering: local conditions; and efficiency of water transport, storage and application systems and; supports water users sharing use and management of water taken. ORC has commissioned reports on efficiency from Aqualink, which is the consulting arm of Lincoln University. The region has been mapped for rainfall and soil types, and this together

with land use gives guidelines for how much irrigation water is required. The guidelines provide for dry years, but not drought years.

What is the cost of an individual application?

For a non-notified application the deposit for an application is \$1000. In the past six months (up to 31 March 2017), average processing costs for surface water permits have been \$1800, and the maximum \$7,363 (all figures include GST).

For limited or publicly notified applications the costs are higher.

If there have already been applications lodged in my area, can I access their accompanied data for my renewal (rather than duplicate) and free load.

Application related information is public and available to others. Note that groups sharing costs relating to application preparation, water management, and use can give benefits to all water users.

What will happen if this process goes beyond 2021 to those that have lodged prior? Does ORC have the capacity to process the remaining consents?

Provided the consent application is made at least six months before the expiry of the existing consent, the water user can continue to operate under the existing consent until the new consent is either granted or declined and all appeals determined.

How will water be allocated if proposed minimum flows are double the current rate (does this mean my water will be halved?)

Water allocated to consents will reflect existing proven taking. Noting, however, that the future takes will have minimum flow constraints which will limit taking water during low flows. Factors including the number of days that water takes will be restricted are taken into account in the process for setting minimums flows. Any person who will be affected by a minimum flow can make a submission on the relevant plan change that is for the minimum flow.

Minimum Flows

Until the minimum flows for river and tributaries are agreed upon, then the hydrology model cannot be established to calculate river flows and acceptable irrigation takes – essentially chicken before the egg.

Consultation establishes the values of water within and out of rivers, which determine the minimum flow necessary to maintain those values within the river. Water is allocated to users who can take water from a river when flows are above the relevant minimum flow. In setting minimum flows there is usually an attempt to determine the “naturalised” flow sometimes with the aid of modelling, to indicate what flows might occur in the absence of any water being taken.

‘Allowable’ applied irrigation on ground is quoted and based on sprinkler-based delivery but this may not be feasible or economic over many irrigated hectares in the catchment.

The water plan provides for the quantity of water granted in a permit as that required for the intended purpose of use considering: local conditions; and efficiency of water transport, storage and application systems and; supports water users sharing use and management of water taken. Where irrigation practices other than spray are the most efficient, the reasons for not spraying can be taken into consideration.

Why consult with the public if ORC has already decided on residual and minimum flows?

ORC develops minimum flows through plan change processes that include community consultation designed to define community and ecology values and establish flows to protect those values for current and future generations.

Residual flows are not predetermined, and evolve through these processes. The affected parties are involved in agreeing to what a residual flow on a permit should be.

How are actual numbers for minimum flows decided? What is the degree of error associated?

ORC does a scientific study of flows and biota in the river, before a minimum flow process starts. This may include flow modelling where records are incomplete or short-term. ORC then consults the community establishing their values for water use both within and out of the river, and then proposes options for the flow necessary to maintain the values for water use, taking into account the science data. Water beyond that necessary to provide the in river value is available to take for out of river use – water supply, irrigation. ORC consults with relevant communities several times while setting a minimum flow. After further consultation on options, one option is then publicly notified in the formal plan change process.

Other

Have we considered the impact that wilding pines and willows have on the flow of water? These grow rampantly and are also a major user of water.

The effects of land use including afforestation will show up in the flow data that is collected.

How is an aquifer defined?

The Water Plan defines an aquifer as “a geological formation capable of holding water”. ORC’s groundwater scientists study aquifer properties to determine boundaries, recharge areas and allocation limits. These are added via plan change processes to the Water Plan.

Are permits granted in the last decade for water extraction from the Clutha River/Mata-Au considered as deemed permits?

Deemed permit is defined in s413 of the Resource Management Act, being a current mining privilege or right issued in substitution of a mining privilege at the time the Act came into force [1 October 1991]. Any consents granted since 1991 are not deemed permits.

Mining rights were given in perpetuity. What legal basis is there for the 30-year time line?

Section 413(3) of the Act says every deemed permit shall be deemed to include a condition that it expires on the thirtieth anniversary of the start of the Act [1 October 2021].

Will we still have a stock water supply in our irrigation races?

Yes, section 14 of the Act says no one can take or use water unless for reasonable domestic needs or reasonable needs for a person’s animals for drinking water. However, there is a consideration of how much water taken into a race is necessary to supply domestic and stock water. All other takes require consent approval.

Do bottling consents come into the equation when assessing water allocation?

Bottling is a consumptive use of water like irrigation and other industrial activities. ORC allocates water in accordance with the provisions of the Resource Management Act, first in first served.

When reviewing water takes – what was the feasibility study for drawing from the Clutha?

Using the Clutha River/Mata Au as an alternative source of water requires legal, practicable and financial considerations.

Is a permit granted now regarded as a new permit of existing?

A permit is replaced not renewed, so all consent are new consents– but the Resource Management Act enables, with conditions, use of existing permits while a replacement is being processed. The Water Plan also recognises the ability to replace existing consents in over allocated catchments with new permits according to their historical use, providing such application is made in time.

Why was compensation never given to landowners when mining privilege was altered?

Section 416 of the Resource Management Act says no compensation may be claimed as a result of the deemed expiry of a deemed permit.

417 Certificate

Does the access easement follow a race when the race has moved?

An s417 certificate is for the original line of the race. There are some historic instruments that authorised a change, or extension of the line of a race after the original was granted, and s417 certificate can provide for this situation. Where a race has been moved with no authorisation, a certificate cannot be given for it. A private easement may be obtained.

Are these easements for all races or the main race?

An s417 certificate can be given for any race where there is a corresponding mining privilege for the race. If a race has been created later without such authorisation then an s417 certificate cannot be given for it. A private easement may be obtained.

Efficiency

What will happen to the aquifers that have been fed from flood irrigation if we move to spray?

We have already seen some change in aquifers and surface water bodies from the effects of changes in land use and irrigation practices. If less water is being applied to land through more efficient irrigation practices, the net hydrological budget is not changed, however the location of some of the water may change (eg being left in streams instead of percolating into aquifers). These changes tend to be gradual allowing time to adjust.

KTKO

How do KTKO assess water requirements in their approach to minimum flow discussions?

Is it the general policy for KTKO to agree to a 25-year term (as opposed to 35-year term in the RMA).

KTKO said at the Water Forum in March 2017 that a longer term than 25 years has been negotiated in some cases.

KTKO represents the Runanga in Otago, and their values are set out in the Kai Tahu Ki Otago Natural Resources Plan 2005.