

Practice Note:

Replacement Surface Water and Connected Groundwater Take and Use Applications

The below practice note outlines what to consider when you are replacing an existing surface water take and use permit or groundwater take and use permit that is allocated as surface water.

A **replacement** surface water permit or groundwater take that is allocated (in full or part) as surface water is processed under the Chapter 10A rules in the Water Plan.

Note: This practice note **does not** apply if you are applying for a **new** surface water or groundwater take or if you are applying to **replace a groundwater take that is not allocated as surface water**. You will need to look at the rules in Chapter 12 of the Water Plan for these activities. Refer to the following practice notes:

- [New surface water and connected groundwater take and use applications](#)
- [New groundwater take and use applications](#)
- [Replacement groundwater take and use applications](#)

5-year duration automatic extensions

If your consent was granted between **18 March 2020** and **21 August 2025** for a term of **6 years or less**, then a replacement consent for your water permit does not need to be applied for. You will receive an automatic **5-year extension to your consent term**. The Council will be re-issuing your permit with this new consent term in 2026. If you have an existing water measuring location exemption (WEX) then this will be updated with the new expiry date. You will receive an email with your updated consent document and WEX (if you have one). There will be no charges for this reissue.

If you have **consents associated with your surface water take** such as damming, diversions, discharges these will **not** receive the automatic 5-year extension. If these consents expire before 31 December 2027 then a short-term extension will be provided to them (see section below). If this does not apply or you seek to align the consent term with the surface water permit, then replacement consents will need to be applied for.

We recommend these applications are made at least 6 months before the consent expires. If you seek a 5-year duration for these associated consents, your application can reference the previous one, and a streamlined consent process will be applied. The only exception is high risk dams, which will require an updated assessment. For further advice, please contact consent.enquiries@orc.govt.nz.

Consents that expire before 31 December 2027

If your consent is not covered by the 5-year extension above, **expires before 31 December 2027**, and was originally granted for **less than 35 years**, it has been **automatically extended to 31 December 2027** under the *Resource Management (Consent Duration) Amendment Act 2025*. This duration extension applies to all consents including consents for damming, diversion or discharges to land/water. The Council will re-issue your permit in 2026 to reflect this new expiry date.

More details on these extensions can be found on our website: [Changes to resource consent durations](#). If you are unsure whether this extension applies to your consent, please contact consent.enquiries@orc.govt.nz.

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If the above applies to your consent, you can still apply to replace your consent before the new expiry date. We would recommend that any applications for replacement consents are made at least **6 months before the expiry of the consent** (by 30 June 2027) to ensure that you can continue to operate under your current consent while a decision is made on the application (s124 of the RMA). The below practice note has advice on what to include in a replacement surface water take or connected groundwater take and use application.

What rules apply to the activity?

There are three consent pathways for replacing a surface water or connected groundwater take and use activity: controlled activity (must be granted), restricted discretionary activity and non-complying activity¹.

Controlled activity

This must be granted and conditions may be applied. This pathway applies when:

- A consent term of no more than 6 years is sought
- There is good water metering data
- The application is not seeking more water than the rate or volume of take recorded by the water meter before 30 June 2020 or where the existing water permit authorises a take less than 5 L/s, the application is not seeking more water than stated on the current permit
- Any existing conditions on the current permit (i.e. residual flow, minimum flow, take cessation conditions, fish screens) are proposed to be carried into the replacement consent
- There is no increase in the area of irrigation beyond the maximum area irrigated between 1 September 2017 and 18 March 2020².

Restricted Discretionary Activity

This rule primarily provides for those applications that meet all the controlled activity entry conditions but cannot meet the requirements about the recorded rate and volume of take because of limited water measuring data.

It also provides for community water supplies where there is a need to increase the take (within the limits of the existing permit) to provide for population growth within a six-year consent term.

Non-complying Activity

If the activity cannot meet the controlled activity or restricted discretionary options above, the application is considered under the non-complying pathway.³

The Plan Change (PC 7) decision that created these rules indicates that this consent pathway is intended for circumstances that are out of the ordinary. Please be aware that this process may take more time, involve higher costs, and there is less certainty around the outcome compared to the other two options. If you are considering applying for a non-complying activity, we recommend discussing it with us before lodging your application.

¹ There is a fourth pathway (restricted discretionary) but this only relates to specific consents associated with the Waipori Hydro-electricity Scheme.

² If the take is for an orchard or vineyard, an additional area of irrigation can be included if the mainline irrigation pipes for that area were installed before 18 March 2020.

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Notification

An application made under the controlled or restricted discretionary activity rules of Chapter 10A **will not** be publicly or limited notified as the Council is precluded from doing so. This preclusion does not apply if you have other associated activities that require consent. Refer to ‘other activities’ below for what will be considered in those circumstances.

If an application is for a non-complying activity under Chapter 10A or if you apply for a new consent to take water or to replace a groundwater take (processed under the Chapter 12 rules), then Council will need to consider the application under s95 of the RMA. More details on s95 can be found here: [The Notification Process](#). When assessing the adverse effects on the environment for s95 of the RMA, the Council will take into consideration the duration applied for as this will impact the extent of any adverse effects.

Historic Use and Schedule 10A.4

One of the entry requirements for the controlled activity rule is an assessment of historic water use under Schedule 10A.4. This is ideally undertaken before you lodge your application so that you are clear on what rule you are lodging the application under.

Requesting a historic use assessment

You can request a Schedule 10A.4 assessment by:

- Lodging a pre-application with Consent Enquiries: [Pre-application form](#)
- Including in the pre-application form that you are requesting a Schedule 10A.4 assessment – make sure to include details on the water permits you are seeking this for
- We will then send this to our Data Team. We will be in touch with the assessment once it is complete. Please allow at least 10 working days for this request to be completed.

Gaps in the data record from meter malfunction

The restricted discretionary Rule 10A.3.1.A.1 enables additional data to be considered to assess historic use. Such applications will need to be supported by other means of determining what the historical use is likely to have been for the gap in the data. This may include:

- extrapolation of electricity records
- use of Aqualinc ([Aqualinc guidelines](#))
- use of other models/evidence of use

It is likely that a combination of methods will be required to support an application. The application will need to clearly outline how the data and methods reflect historic use.

Use of recent water meter data

The restricted discretionary rule 10A.3.1.A.1 enables data from additional seasons to be considered. If you are seeking to have data from additional years considered, this will need to be stated in the application and when the historic use assessment request is made. The application will need to provide justification and reasoning for any additional seasons of data being included.

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Increases in rates and/or volumes of take within the current consented limits

You may have not used the maximum rates and volumes on your current consent but have future plans to develop and use this water. Such applications do not reflect historic use and are **non-complying activities**. Advice on non-complying replacement surface water takes can be found below.

Increases in rate and/or volumes of take outside of the current consented limits

If you seek rates and/or volumes of water that are greater than what is on your current consent, a **new water permit** (as opposed to a replacement permit) will need to be applied for under the Chapter 12 Water Plan rules. Such applications can only be made where there is allocation available within the catchment. For more details on what needs to be included with a new surface water permit application, please read: [New surface water and connected groundwater take and use applications](#) practice note.

No water meter data

A measuring device may not have been installed for various reasons. How these will be considered is detailed below:

Non-consumptive takes

Under the Water Measuring and Reporting of Water Takes Regulations 2010, non-consumptive takes are not required to be measured. There is a definition for a non-consumptive take in the Regulations. It is not based on how the water is used *i.e. all hydroelectric takes are not non-consumptive*. For more details on non-consumptive takes refer to the: [New surface water and connected groundwater take and use applications](#) practice note.

installing a water meter before a consent decision

To be able to be considered under restricted discretionary rule 10A.3.1A.1, there is a requirement for a water meter for the take to have been installed. There is no requirement for a minimum time period of installation or minimum time period for recording data. This is an option for takes that do not have a meter and that are not exempted from metering under the Regulations (i.e. a consumptive take of 5 L/s or more).

These applications will need to provide as much detailed data as evidence of historic use of the take so that historical use can be determined. There is no guarantee that the applied for rates and volumes will be granted. It is also noted that no greater than existing consented rates and volumes can be granted under the restricted discretionary rule. The costs for processing such an application are likely to be higher than average.

If the restricted discretionary rule cannot be met, then the activity would become non-complying under Rule 10.A.3.2.1. More details on what is required for a non-complying activity can be found below.

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Irrigation Area

Irrigated Area Evidence

You will need to provide evidence in your application on the area that has been irrigated by the permit and when this irrigation occurred. To be considered under the controlled activity rule, the irrigation area cannot exceed that irrigated in the period between 1 September 2017 to 18 March 2020. Evidence can include a combination of dated aerial photographs, infrastructure plans etc.

Changes to Total Irrigation Area After 18 March 2020

If you have been developing your property since March 2020, the total irrigation area may have increased. This means the application cannot be considered under the controlled activity rule or the restricted discretionary activity rule and the replacement consent application would be **non-complying**. Advice on non-complying replacement surface water takes can be found below.

Proposed Changes to Total Irrigation Area

You may be proposing to upgrade irrigation infrastructure to enable more land to be irrigated. If the application is seeking to increase the total irrigation area from March 2020, then the application is a **non-complying** activity. Advice on non-complying replacement surface water takes can be found below.

Changes to Irrigation Areas After a Consent Has Been Granted

When you receive a replacement water permit for irrigation, it will include:

- The maximum area (in hectares) that can be irrigated, and
- The legal descriptions of the land parcels where the water can be used.

There is some flexibility in where you apply the water. You can irrigate different areas than you have in the past, as long as:

- You **don't go over** the maximum irrigation area listed in your permit, and
- You **only irrigate land parcels** that are listed in the permit.

This approach gives you freedom to adjust your irrigation layout while staying within the rules of your consent.

Changes to legal parcels – Additional Parcels

If, once consent has been granted, you seek to add additional land parcels for irrigation or change the land parcels that are irrigated and these are outside of the consented legal parcels (command area), you may need to apply for a variation (s127 of the RMA) to your application. This allows Council to consider the effects of using the water on the new area.

More details on s127 variations can be found here: [Form 22 - Variation Application Form](#). If Council considers that the activity does not meet the criteria for a s127 variation, then a replacement consent will need to be applied for. If you are unsure and would like advice before applying, please get in touch with consent.enquiries@orc.govt.nz.

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Changes to legal parcels – due to subdivision of land

If, once consent is granted, the legal parcels on the consent are subdivided and the titles change then Council can consider a s133A minor correction to the consent document. This is only the case where there is no change to the total command area and the total area irrigated and /or rates and volumes of water taken. Such applications can be made by completing the Council's [pre-application form](#). This form should outline the proposed changes. You will also need to agree to a time extension for the minor correction. A fixed fee of \$200 applies.

Allocation

Under Chapter 10A of the Water Plan, Council is unable to specifically assess and consider whether a water permit is for primary or supplementary allocation. If the allocation status is stated on the permit being replaced, this will be carried over to the new consent. If not, there will be no reference to allocation type on the replacement permit.

Other Activities

Retakes of Water

Water in dams and water races is considered to be 'water' under the RMA. Consent is required for the take and use of this water, if there are no permitted activity rules in the Water Plan (or NES rules) that provide for this taking and use. More details on retakes and what is required with an application can be found here: [Guide for retakes, off-line damming and diversions](#).

To ensure that your activity has all the consents required, we will include any retakes of water on your primary water take and use permit. We will consider the retake activity under the primary water take rule (i.e. the take from the river) when this is being replaced.

To enable retakes to be considered, your application needs to provide the location of any retakes from water races and reservoirs. For schemes and where there are multiple takes, we can accept a current race plan that will be appended to the consent.

Damming and Diverting of Water

If the diverting of water or damming cannot meet the permitted activity rules in Chapter 12 of the Water Plan, then consents will be required for these activities.

More information on what needs to be lodged with these applications can be found here:

- [Guide for retakes, off-line damming and diversions](#)
- [Environmental considerations for different damming and diversion activities](#)

Applying for Multiple Water Related Consents

If your application includes a water take and use activity under Chapter 10A of the Water Plan, and also includes other activities like damming, diverting, or discharging water under Chapter 12 of the Water Plan, Council is likely to apply a hybrid activity approach to assess your application.

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What does a hybrid Activity approach mean

We will:

- **Assess the water take and use separately** from the other activities. This includes deciding whether public notification is needed.
- **Look at the damming, diversion, and discharge activities on their own**, including whether you need written approvals from affected parties.
- **Apply the relevant rules and policies** from the Water Plan, regional policy statements, and national policy documents to each part of your application.
- **Consider the activity status** of each component (e.g. damming and diverting are usually restricted discretionary or discretionary).

What affects the level of detail we need?

The amount of information required depends on:

- The scale and type of the activity
- The age and condition of any existing infrastructure
- The location of the activity
- The length of the consent term you're applying for

Shorter consent terms that match the water take and use permit can help streamline the process and reduce costs.

Non-complying activities

Non-complying activities have to pass a gateway test before a decision can be made on whether to grant or decline the consent application. Non-complying applications need to assess all the environmental effects of the take and use activity³ and all the relevant provisions of the Water Plan (note – this is not limited to Chapter 10A).

The effects of the activity need to be no more than minor or the application not contrary to relevant provisions before a decision can be made on the application. In saying that, the assessment should be proportionate to the scale of the activity and level of the breach. For direction on potential effects of a surface water take that should be assessed in such an application, refer to [New surface water and connected groundwater take and use applications](#) practice note.

Relevant objectives and policies include those in other chapters of the Water Plan. We suggest you review the provisions in Chapters 5 (Natural and Human Use Values of Lakes and Rivers) and 6 (Water Quantity) of the Water Plan. Other chapters may also be relevant depending on the activity (e.g. Chapter 10 – Wetlands). As the wider Water Plan has not been developed in accordance with higher order documents, it is appropriate to also consider the relevant provisions in the proposed Otago Regional Policy Statement 2021.

³ The effects are not limited to the reason for the breach
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Change in purpose of use

Existing water permits that take and use surface water or are allocated as surface water are typically replaced under the Chapter 10A rules. One of the exceptions to this is where there is a change in the purpose of use (e.g. change in use from irrigation to water bottling) on the consent. The Chapter 10A rules of the Water Plan do not apply and these applications must be considered under the Chapter 12 rules.

[New surface water and connected groundwater take and use applications](#) practice note has advice on the rules that apply to new surface water and connected groundwater take and use application.

For applications that are seeking to replace an existing water take in a fully or over-allocated catchment with a change in the purpose of use, Rules 12.1.4.2, 12.1.4.4, 12.1.4.5 may apply. These are **restricted discretionary** activities.

Measuring of the Take

Under Chapter 10A of the Water Plan one of the matters of control and discretion is *'the point and method of measurement and the method for transmitting recorded data to Council'*. The Water Measuring and Reporting Regulations 2010 and amendments 2020 prescribe the minimum requirements for measuring consumptive takes of 5 L/s and above.

The Council requires all consented takes to have a **water meter**, a **datalogger** to record the information and for the data to be sent daily to Council via **telemetry**. Standard measuring conditions that are aligned with the Regulations are imposed on water permits.

The one exception is **open channel surface water takes that are consented for less than 5 L/s**. A modified measuring arrangement may be agreed to for these applications. We suggest you speak with your water measuring provider and the Council's Water Metering team if this applies (watermetering@orc.govt.nz). This will enable the application to propose an appropriate measuring method.

Location exemptions (WEX)

A location exemption is required when the water measuring device is located greater than 100 metres from your consented point of take. If this applies to you, you will need to complete [Form 24 - Application for exemption to use a water measuring device near water source](#) for each WEX that you require and lodge this with your application for your replacement application. This is required for existing WEXs and new WEXs. The appropriateness of the WEX will be considered for both replacement and new WEXs.

We will aim to process the WEX at the same time as your water permit replacement so that both can be issued at the same time, although this may not always be possible.

Telemetry exemptions (WEX)

Telemetry exemptions can be applied for when it is not possible to get cell service at the point of take. These exemptions are issued on an annual basis. They must be applied for between July and December each year for the following water year.

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Types of measuring devices

Council is currently phasing out the use of mechanical or clamp on water meters as they are less reliable and prone to measuring errors.

More information on measuring requirements

More information about water measuring and water measuring exemptions can be found here: [Water metering and measuring](#)

Statutory assessment

For controlled and restricted discretionary activities under Chapter 10A of the Water Plan, a very limited statutory assessment is required. This is because Chapter 10A is a recent addition to the Water Plan and it is consistent with Part 2 of the RMA. This means there is no need to consider higher order documents such as the Regional Policy Statements, National Policy Statements and RMA when making the decision.

In terms of Chapter 10A⁴, the only relevant provision is the objective. This is because the wording in the policies makes them irrelevant or the policies have been superseded by direction in the RMA (i.e. in relation to consent terms).

The Council is able to consider other relevant provisions in the Water Plan that relate to the matters of control and discretion.

If you complete application [Form 4A](#), you will have done the necessary assessment of the activity against the relevant objectives and policies.

For non-complying activities under Chapter 10A of the Water Plan, refer to the advice in the non-complying section above.

Consent Term

All water take and use applications in the Otago Region are limited to a **maximum 6 year consent term**. This is in accordance with s127B of the Resource Management Act. This 6-year term typically applies from the issue date.

Cost of processing

Details on fees and charges can be found here: [Fees and Charges](#)

Consent conditions

Examples of conditions that may be imposed on your replacement water permit can be found here: orc.govt.nz/PC7StandardConditions

⁴ As a result of Amendment 4 to the Regional Plan: Water made operative on 21 August 2025
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Conditions are limited by the matters of control and discretion in the rules of Chapter 10A.

Ready to Apply?

To be able to continue operating under your current permit while a decision is made on your replacement permit we recommend that you lodge your replacement application with Council **at least 6 months** before your current permit expires. We suggest you commence preparing your application at least a year before it expires.

Details on application forms, fees and changes and how to lodge an application can be found here: [Apply for a Consent – Resource Consent Applications & Support](#)

Form 1 and [Form 4A](#) can be used to lodge a replacement surface water take and use or connected groundwater application.

Things to think about for your application

- The rule(s) you are applying under
- The maximum area of land irrigated between 1 September 2017 and 18 March 2020 that the water permit you have sought to replace irrigated and the evidence you have to support this
- The rate of take and monthly and seasonal volumes you have applied for. Is this less than or more than water meter records show you have taken prior to 30 June 2020? (The controlled activity rule requires the rates and volumes to be equal to or less than that calculated using the Schedule 10A.4 methodology).
- If your take is for less than 5 litres per second or is a non-consumptive take, are the rates and volumes sought no more than the current consented rates and volumes?
- If you wish to use water measuring data beyond 30 June 2020 or have insufficient water metering data, what other methods and data do you have to accurately represent historic water use? Are the rates and volumes sought no more than existing permit conditions?
- Does the permit you are replacing have any residual flow conditions, minimum flow conditions or any other conditions that restrict when and how much water can be taken? Does your application seek to include these on the replacement consent?
- Are you a community water supply? Is there a need to provide for population growth? How will population growth for the term of the consent be determined? How will water requirements for the population growth be determined?
- Are there any other conditions on your current permit? Are these proposed to be included on the replacement permit?
- Does the application include activities other than taking and use water (e.g. damming, discharges, diversions, instream works)? Have you applied for these activities and assessed them under the correct rules?

What if I have questions?

If you are unsure about the next steps available to you, would like clarification on the above or have any additional questions please get in touch with Consent Enquiries at consent.enquiries@orc.govt.nz