

Hon David Parker BCom, LLB

Attorney-General

Minister for the Environment

Minister for Oceans and Fisheries

Minister of Revenue

Associate Minister of Finance



27 July 2022

Cr Andrew Noone
Chairperson
Otago Regional Council

By email: Andrew.Noone@orc.govt.nz

Dear Andrew

Professor Skelton's report of June 2022, and High Court judgment of July 2022

I have received from Professor Peter Skelton his June 2022 report and recommendations, *Follow up Investigation of Freshwater Management and Allocation Functions at Otago Regional Council*, which I attach.

This report examines your Council's progress on my recommendations following an earlier report from Professor Skelton in 2019. These included a recommendation to notify a new Land and Water Regional Plan (LWRP) by 31 December 2023.

The further investigation by Professor Skelton was initiated following your 28 March 2022 letter to me requesting a discussion on a longer timeframe for notifying the LWRP, and advising that the Council would welcome an indication on an extension by the end of May 2022.

I wrote to you on 31 May 2022 based on Professor Skelton's interim findings. Since receiving his final report, I have also reviewed the High Court judgment of 22 July 2022, *Otago Regional Council v Royal Forest and Bird Protection Society of New Zealand Incorporated* [2022] NZHC 1777, which provides helpful direction as to what is and is not a freshwater planning instrument.

The judgment requires the Council to re-notify those parts of the proposed regional policy statement (pRPS) that it determines are parts of a freshwater planning instrument. I expect that your staff would have begun this task. I initially thought one month would be sufficient time to complete this. However, to ensure that this is not unreasonably tight, I suggest the reformatted freshwater planning instrument be re-notified by 30 September 2022. My expectation is that the Council will have re-notified these parts by 30 September 2022.

Following Professor Skelton's report and the High Court judgment, I reiterate my expectation that you meet the recommendations and timeframes I set in 2019, including the requirement to notify a new LWRP by 31 December 2023.

Professor Skelton's report raises some concerns regarding Councillors not making decisions on freshwater management matters where they appear to be supported by an appropriate level of scientific evidence. I do not propose to take that issue further at this time, but highlight the issue for you to consider for the future.

I will be releasing Professor Skelton's report publicly on the Ministry for the Environment (MfE) website, as I did with his 2019 report.

Yours sincerely

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

Hon David Parker
Minister for the Environment