

Proposed Canterbury Land and Water Regional Plan

Officers' Reply

Responses to Final Questions – 13 August 2013

Interpretation:

- The responses to questions asked are listed below by page number reference to the "Final Recommendations" marked-up version of the Proposed Land and Water Regional Plan.
- The "tracked changes" that appear below are the suggested changes from the Officer's Recommendations – not changes from the notified text of the Proposed land and Water Regional Plan.

Pages 2-1 and 4-1

Should Policies 4.1-4.10 have pre-eminence over Sub-regional policies?

Yes, there should be refinements to the various interpretive statements to reinforce Policy 4.9, by stating the Policies 4.1 to 4.10 have pre-eminence over Sub-regional Policies. Suggested wording is:

At Page 2-1:

At the end of the third paragraph, add: ", except in relation to Policies 4.2 to 4.10. Policy 4.1 will also take precedence unless catchment specific outcomes are specified in the Sub-regional Section."

At Page 4-1:

At the end of the second interpretive note, add: ", except in relation to Policies 4.2 to 4.10. Policy 4.1 will also take precedence unless catchment specific outcomes are specified in the Sub-regional Section."

Page 2-31 and 4-12

A definition of "sludge from the treatment of human effluent" for Policy 4.28

Sludge from the treatment of human effluent means a semi-liquid residue that settles to the bottom of pipes, tanks and systems used in on-site domestic and community wastewater systems.

Page 4-8

Policy 4.9(c) – more appropriate wording sought

Suggested amendment to wording:

- (c) *have particular regard ~~give effect~~ to collaboratively developed catchment management processes that set local water quality and quantity outcomes, and methods and defined timeframes to achieve those outcomes, including through setting limits and targets; and*

Page 4-8

Policy 4.10 – Should it be extended to additional Policies?

Yes – it should include Policies 4.1 to 4.10.

Page 4-14

Reword Policy 4.34(a) to separate concepts

Suggested rewording:

- 4.34 *The loss of nutrients from agricultural activities ~~any activity~~ to water is minimised through:*
- (a) *raising awareness of the nutrient losses by ~~requiring~~ monitoring water quality outcomes and record-keeping of modelled nutrient loss;*
 - (b) *activities that discharge nutrients operating at good practice or better; and*
 - (c) *requiring the gathering and provision of information on modelled nutrient loss at an individual farm level to raise awareness of nutrient loss and enable better decision-making.*

Pages 4-18 to 4-19

Do we need both Policies 4.44 and 4.46, or can they be combined

Polices 4.44 and 4.46 could be reworded to improve consistency. They could be combined with further drafting changes.

Suggested wording is:

- 4.44 *The damming or diversion of any alpine or hill-fed river or high naturalness waterbody identified in Sections 6 to 15 does not have more than a minimal ~~minor~~ adverse effect on:*

- (a) values of significance to Ngāi Tahu associated with the mainstem;
- (b) the passage of floods and freshes needed to maintain river processes, ecosystem health and the removal of vegetation encroaching onto the bed of the mainstem;
- (c) sediment transport within the river and to the coast;
- (d) fish passage;
- (e) downstream water quality;
- (f) the ecological values of the river and its margins; and
- (g) threatened native riverbed populations and significant indigenous biodiversity;
and
- (h) recreation activities.

4.44A The adverse effects of instream damming on any other waterbody complies with the environmental flow and allocation regime for that catchment and any adverse effects from the damming on:

- (a) values of significance to Ngāi Tahu associated with the mainstem;
 - (b) the passage of floods and freshes needed to maintain river processes, ecosystem health and the removal of vegetation encroaching onto the bed of the mainstem;
 - (c) sediment transport within the river and to the coast;
 - (d) fish passage;
 - (e) downstream water quality;
 - (f) the ecological values of the river and its margins; and
 - (g) threatened native riverbed populations and significant indigenous biodiversity;
and
 - (h) recreation activities
- are, as a first priority, avoided or, where unable to be avoided, are remedied or mitigated.

And delete 4.46.

Pages 5.2 (and others)

Restricted Discretionary Activities – Should some refer to a limited range of objectives and policies?

No, following Mr Maw's legal submissions.

Page 5-12

An alternative wording for the dust suppressant rule:

5.18 The discharge of oil as a dust suppressant onto or into land in circumstances where a contaminant may enter water is a permitted activity provided either condition 1 or condition 2 is met ~~the following conditions are met:~~

1. The substance is approved for use as a dust suppressant under the Hazardous Substances and New Organisms Act 1996 and the discharge of the substance is in accordance with all conditions of the approval; or
2. The discharge is only of vegetable oil, or of new light fuel or lubricating oil and is:
 - (a) applied in a manner that does not result in pooling or runoff, with a maximum application rate not exceeding 2 litres/m² per day and 4 litres/m² per annum; and
 - (b) not within 20 m of a surface water body, the Coastal Marine Area, a bore or soak-hole.

Pages 5-13 to 5-16

Confirm scope for changes to Pest Control and Agrichemicals Rules (ref Page 24 of Officers' report)

Officers confirm that the submissions of the Director General of Conservation and Federated Farmers (High Country) provide scope for the recommended changes, as they either seek deletion of the rules or the use of national approvals (DOC sought "EPA approved"). Officers note that the EPA administers the HASNO controls.

Page 5-28

Provide a suggested "Introduction" to the Nutrient Management Rules

Suggested wording:

The Nutrient Management Rules set out a different set of rules for each of the five Nutrient Allocation Zones that are shown on the Series A Planning Maps (Lake, Red, Orange, Green and Light Blue). Overlaying the rules for each Nutrient Allocation Zone are alternative rules that may apply if nutrient management is being undertaken by an irrigation scheme or principal water supplier.

Page 5-31

Should Rule 5.56 be consistent with Rule 5.59 relating to non-provision of a Farm Environment Plan

Suggested amendments to these rules are:

- 5.56 *The use of land for a farming activity that does not comply with Rule 5.54 or condition 1 of Rule 5.55 is a discretionary activity.*

5.56A The use of land for a farming activity that does not comply with condition 2 of Rule 5.55 is a non-complying activity.

It is also noted that Rule 5.59 has some inconsistent drafting (from an earlier version of the rules that did not include Rule 5.41), such that an amendment should be made as follows:

5.59 The use of land for a farming activity ~~on a property of greater than 5 hectares in area~~ that does not comply with Rule 5.58 is a non-complying activity.

Pages 5-32 to 5-33

Reword 5.60 and 5.61 after considering HWRRP 10.2(ba)

5.60 Notwithstanding Rules 5.43 to 5.59, the use of land for a farming activity is a permitted activity, provided the following conditions are met:

- 1. The property is irrigated with water from an irrigation scheme or a principal water supplier, and the irrigation scheme or a principal water supplier holds a discharge consent that specifies the maximum annual amount of nitrate-nitrogen that may be leached under Rule 5.62 or the discharge is a permitted activity under Rule 5.61.;*

Page 5.67

Rule 5.123 – What are the correct percentages (Ref DOC – Dr Stewart)?

The recommended “default” flow regime is that set out in the Officer’s final recommendations. This is aligned with the Proposed Land and Water Regional Plan, as notified and the on-going work in the Sub-regional Section development. Confusion was inadvertently introduced in the Section 42A Report, Volume 1, where the “as notified” rule was set out incorrectly. The final recommendations reflect the as-notified version of the Rule.

In reality, there are very few rivers in Canterbury that do not have a flow and allocation regime specified in Sections 6-15.

Page 5-89

Reword Rule 5.167(3) to clarify.

Suggested rewording:

- 3. The felling of trees, or any part of a tree, is away from any lake, river or wetland, except where it is not practicable to do so to ensure human safety, and no logs or tree trunks are dragged through or across the bed of a lake or a permanently flowing river, or a wetland; and*

Reword Rule 167(6) to clarify.

Suggested rewording:

Delete Condition 6 and add to the beginning of conditions 1 and 2, the following: "Except in relation to recovery activities..."

Page 5-90

Rule 5.168 – Is it appropriate to add an alternative condition re Forestry CoP and FEP?

Yes, Officers are satisfied that an alternative to condition 1 could be "Earthworks within a production forest undertaken in accordance with NZ Forest Road Engineering Manual (2012) or where the earthworks are addressed in a Farm Environment Plan"

Page 5-102

Is a passive discharges rule needed (ref Oil Companies "homework")?

Officer's considered the Oil Companies suggestions, and considered that the rule framework being suggested is not able to be supported as the suggested rule framework is:

- 1. Very broad, in that a range of discharges of uncertain effect would potentially be permitted;*
- 2. Would likely not meet section 70 requirements or the limits recommended in Schedule 8;*
- 3. Poorly provides for the thousands of other HAIL sites in Canterbury;*
- 4. Relies on assessment of permitted activities under the Natural Resources Regional Plan – no other Rules in the Proposed Land and Water Regional Plan rely on an assessment under the Natural Resources Regional Plan; and*
- 5. Purports to convert all previous contaminated land discharge consents to permitted activities.*

If the Hearings Commissioners were minded to add a passive discharge rule, then the following is suggested:

- 5.x The discharge of contaminants to land in circumstances where contaminants may enter water from a contaminated site is a permitted activity provided the following conditions are met:*
- 1. The concentration of contaminants in groundwater meets the limits for groundwater set out in Schedule 8; and*
 - 2. If the discharge is to surface water or the discharge to land subsequently enters surface water, the discharge, beyond the Mixing Zone as defined in Schedule 5 meets the water quality standards in Schedule 5, and does not:*

In addition to existing Condition 1.

- (a) *produce conspicuous oil or grease films, scums or foams, or floatable or suspended materials; or*
- (b) *produce any conspicuous change in the colour or visual clarity; or*
- (c) *produce any emission of objectionable odour.*

5.y *The discharge of contaminants to land in circumstances where contaminants may enter water from a contaminated site that does not meet one or more conditions of Rule 5.x is a discretionary activity.*

Page 16-13

Is Schedule 5 only used as a threshold to trigger consents, or is it also a matter of discretion?

Schedule 5 is used in the rules only as a condition of a permitted activity – essentially as a threshold beyond which a resource consent is triggered.

Schedule 5 is also referenced in Policies, as desirable discharge outcomes – for example Policy 4.13.

Page 16-13

Should Schedule 5 use median/95th percentile etc (ref Quinn Evidence)

In the Officers' opinion, the submitter has misinterpreted the purpose of Schedule 5. Schedule 5 contains a method to identify the mixing zone, and a set of thresholds. The rule framework uses Schedule 5 as a threshold for compliance. On this basis, the values in Schedule 5 are for any instantaneous sample – they are not averages or subject to other statistical functions.

An analogy is condition 1 of Rule 5.8 – a person can discharge 2m³ of treated wastewater per day. This means that if on any day 2.1m³ is discharged, this rule is not complied with. Similarly, for those rules that rely on Schedule 5, any sample that exceed the values is evidence of non-compliance.

The submitter in part wishes to enable short-term discharges associated with forestry by balancing against the intervening low discharges – almost to the 30+ year rotation timeframe. The Officers do not support this.

In addition, it is noted that there are no submissions on Schedule 5 that support the suggested change to a statistical approach.

Schedule 17 - Evidence to consider regarding the Lakes Station submission

Schedule 17 is copied (unaltered) from the natural resources regional Plan. Stock access by cattle to these areas is already a prohibited activity under Rule WQL21 of the Natural Resources Regional Plan.

The Natural Resources Regional Plan Section 32 Report was relied on for the derivation of Schedule 17. The Proposed Land and Water Regional Plan Section 32 Report cross-references to this earlier Section 32 Report, which references the NIWA Unwin report (see page 19 in particular).