

Tamina Roberts

From: Alanya Limmer <alanya.limmer@gtrlaw.co.nz>
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Subject: TRIM: Submission on Variation 1 to the Land and Water Regional Plan
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Dear Sir/Madam

Please find **attached** a submission on the above plan, filed on behalf of the Dunsandel Groundwater Users Association Inc.

Regards

ALANYA LIMMER
DIRECTOR



T +64 3 374 9999
DDI +64 3 353 0722
F +64 3 374 6888
M +64 21 221 7725
E alanya.limmer@gtrlaw.co.nz

Goodman Tavendale Reid Limited
Suite 2, 21 Leslie Hills Drive, Riccarton
PO Box 442
Christchurch 8140, New Zealand
www.gtrlaw.co.nz

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**SUBMISSION ON VARIATION 1 TO THE PROPOSED CANTERBURY LAND and WATER
REGIONAL PLAN**

Clause 6 First Schedule, Resource Management Act 1991

TO: Environment Canterbury
Freepost 1201
Variation 1 to the proposed Canterbury Land and Water Regional Plan

By email: mailroom@ecan.govt.nz

Name of Submitter: Dunsandel Groundwater Users Association Inc

1 This submission is on:

Variation 1 to the Proposed Canterbury Land and Water Regional Plan (**Plan**).

2 The specific provisions of the Plan that this submission relates to are:

- 2.1 Policy 11.4.22 (a) and (c); and
- 2.2 Policy 11.4.23; and
- 2.3 Policy 11.4.25; and
- 2.4 Policy 11.4.26; and
- 2.5 Policy 11.4.31; and
- 2.6 Policy 11.4.32(b) and (c); and
- 2.7 Rule 11.5.32(6) and Matter of Discretion (7)(v); and
- 2.8 Rule 11.5.33(6) and Matter of Discretion (2); and
- 2.9 Rules 11.5.37 and 11.5.39 which prescribe the process for transferring water permits;
and
- 2.10 Rule 11.5.42; and
- 2.11 Schedule 10.

Introduction

- 3** The Dunsandel Groundwater Users Association Inc (**Submitter**) was formed in 1997. It currently comprises 75 members, who are mainly large scale irrigators. The membership irrigates over 20,000 Ha predominantly on the Upper Central Canterbury Plains, between the Rakaia and Selwyn Rivers, i.e. within the Rakaia-Selwyn water allocation zone. Some members are north of the Selwyn River.
- 4** The members currently source their irrigation water from groundwater, generally at depths of greater than 20 metres. In general the members own relatively new infrastructure which has been installed in the last 20-25 years.

5 The consents held by the members were part of the large-scale review of water permits within the Rakaia-Selwyn water allocation zone (as it was then). This process commenced around 2006 and was concluded (by way of Environment Court settlement) in mid-2012. As a result, the consents are now subject to annual volume limitations amongst other conditions. At the commencement of the review process, the Council was proposing the addition of adaptive management conditions. This met with fervent opposition and was fairly quickly resiled from.

6 Many of the members are also shareholders in the Central Plains Water Scheme.

Transfer of water permits

7 **This submission opposes the provisions of the Plan affecting the transfer of water permits within the Rakaia-Selwyn water allocation zone.**

8 **The reasons for this opposition include, but are not limited to, the following:**

8.1 The provisions are inequitable as between consent holders who are shareholders in the Irrigation Scheme area and those who are not. The proposal that shareholders must surrender the entirety of their existing, consented groundwater take is opposed for being unfair.

8.2 Consent holders who are also shareholders will have made a substantial investment twice – firstly, in respect of obtaining their existing consent and installing necessary infrastructure and then again in subscribing to the Irrigation Scheme. In many cases, affected consent holders will be in possession of valuable, reliable, long-term groundwater consents. By investing in Irrigation Scheme water others within the zone will benefit (including the environment) but the consent holder is not entitled to any financial recompense for their past investment. This contrasts with other groundwater users who, while having to relinquish some water upon transfer, remain able to recoup some costs. The reason for this differential treatment is not apparent in the section 32 report and cannot be justified.

8.3 Variation 1 relies heavily on current groundwater users taking up shares in the Irrigation Scheme and replacing their groundwater takes accordingly. It should be incentivising this switch and the additional investment it requires as far as it practicably can. Policy 11.4.22(a) does not assist in positively encouraging the change and risks deterring uptake.

8.4 The transfer provisions also require a high percentage (50%) of water to be relinquished upon transfer occurring. This 50% figure is too high. It penalises those seeking to transfer consents and in doing so risks disincentivising the transfer of water and associated benefits. The Submitter seeks a figure that is more reasonable.

8.5 Related to the above, the Submitter acknowledges the benefit of certainty being provided in respect of a fixed percentage for surrender. However, circumstances can vary markedly both between consents and over time. Therefore some flexibility is sought in the form of discretionary activity status if a surrender proportion of less than 25% is proposed in any particular case. The policies make the environmental outcomes sought very clear. As such, there can be no suggestion or expectation that a surrender proposal of less than 25% is likely to receive approval. However, discretionary status at least allows an assessment on the merits and at the relevant time taking into account the prevailing circumstances. This is a sub-region within which much change is anticipated by the Plan. The provisions should recognise and accommodate this.

8.6 The Submitter also seeks provision for a consent holder to transfer water to another parcel of land where that land is also owned by the consent holder or related entity.

In effect, the consent holder is allowed to manage their overall water allocation – which may be the sum of several resource consents - as they see fit and as commercial conditions require from time to time. This is somewhat analogous to a water user group concept or even the farming enterprise concept for nutrient management.

- 8.7 The current provisions do not expressly address or support the transfer of groundwater down-plains where it is replacing surface water transferred up-plains and to a scheme. Such transfers will assist in meeting the environmental objectives of the Plan and therefore should be actively sought in its provisions. The Submitter suggests additional provisions in this regard.

9 **The submitter seeks the following relief:**

- 9.1 Delete Policy 11.4.22(a); and
- 9.2 Amend Policy 11.4.22(c) to require surrender of 25%, rather than 50%; and
- 9.3 Add an additional subparagraph to Policy 11.4.22 which allows the full transfer of groundwater down-plains if it is replacing a surface water take that has been transferred up-plains and to a scheme; and
- 9.4 Add an additional subparagraph to Policy 11.4.22 which allows the full transfer of water from one parcel of land to another, where both parcels are owned by the consent holder or related entity; and
- 9.5 Delete condition (3)(d) in Rule 11.5.37; and
- 9.6 Amend condition (4) in Rule 11.5.37 by replacing “50%” with “25%”; and
- 9.7 Amend Rule 11.5.37 to provide for the scenarios outlined at 9.3 and 9.4 above; and
- 9.8 Delete prohibited activity status from Rule 11.5.39, replacing it with discretionary status.

Consented volumes

10 **This submission opposes provisions of the Plan that require consented volumes to be calculated based on:**

- 10.1 Demand conditions in 8.5 out of 10 years; and/or
- 10.2 “Demonstrated use”; and/or
- 10.3 Method 1 in Schedule 10.

11 **The reasons for this opposition include, but are not limited to, the following:**

- 11.1 The Submitter is frustrated and disheartened to find itself debating the method to establish consented volumes on consents yet again. It (or its members) has participated in two extensive planning processes already – the NRRP process (in particular, Schedule WQN9) and the Rakaia-Selwyn review process, which took approximately 5 years to resolve.
- 11.2 It was also a submitter on the proposed Land and Water Regional Plan including in respect of Schedule 10.

- 11.3 It is important that the consented volume for an established operation is based on “reasonable use”. This provides on-going viability of use and appropriately recognises the investment inherent in the existing consent. The Land and Water Regional Plan policies speak of “reasonable use” and require determination of this in accordance with Schedule 10. It is unclear why Variation 1 speaks of “demonstrated use” (undefined) and limits the method of determination to only Method 1 of Schedule 10.
- 11.4 The section 32 Report suggests that information from the last three seasons supports this altered approach because it shows less water being used than allocated. However, a consented volume is an absolute maximum. It is not intended to reflect how much water is used on average or even most of the time. In light of that, the data referred to does not support the notion that consent holders have considerably more water allocated than needed.
- 11.5 It is unclear from the Variation as notified and the section 32 Report how the Regional Council is proposing to ascertain demonstrated use. It is also unclear how the records of demonstrated use are to be “moderated”. The section 32 report advises that technical advice is yet to be commissioned on the development of a protocol to implement Method 1. This provides the Submitter with insufficient knowledge or comfort of the type of volume this process will result in.
- 11.6 There is no reason to eliminate Methods 2 and 3 of Schedule 10 as being a means of deriving reasonable volumes for existing consents. Additionally, the costs of moving to an 8.5 year out of 10 volume rather than the 9 out of 10 set in Schedule 10 are not justified. Such erosion in irrigation reliability carries an economic consequence that cannot be justified by environmental outcomes, including social and economic effects.
- 11.7 Just because a consented volume provides for 9 in 10 years reliability it does not follow that a consent holder is careless or reckless with the water that is not needed in other years. There are very real deterrents to such behaviour, most obviously the costs of abstracting water. It is therefore not surprising that actual recordings show less water used than allocated most of the time. That is good, environmentally. However, it does not support the contention that the water allocated is not needed at all or that irrigators can afford to lose it.

12 **The submitter seeks the following relief:**

- 12.1 Amend Policy 11.4.23 by replacing “demonstrated use” with “reasonable use”; and
- 12.2 Amend Policy 11.4.25, Rule 11.5.32(6), Rule 11.5.33(6) and associated matter of discretion (2); by deleting the reference to Method 1 (of Schedule 10) and instead allowing Schedule 10 in its entirety to be used to determine consented volumes; and
- 12.3 Amend Policy 11.4.26 so that “eight and a half” is replaced with “nine” and the additional consented volume is determined in accordance with Schedule 10; and
- 12.4 Delete the proposed addition to Schedule 10 – Reasonable Use Test.

Adaptive management

13 **This submission opposes Matter of Discretion 11.5.32(7)(v).**

- 14 Matter of discretion 11.5.32(7)(v) allows the Council to consider imposing adaptive management conditions on all consents, even where the consent that is being replaced is not subject to such a regime. This is not the most appropriate way to give effect to Policy 11.4.27.
- 15 Adaptive management conditions have been imposed on more recent consents in the Rakaia-Selwyn Zone as a means of reducing potential effects on the environment. Such conditions were seen as necessary to respond to the Council's position that the groundwater zone was over-allocated. Adaptive management conditions increase the costs and decrease the reliability of a consent. Commencing an operation with this knowledge is quite different from having such conditions imposed on a replacement consent for an existing operation. This potentially undermines the investment made by those who obtained groundwater consent early on due to the consents that have been granted later.
- 16 **The submitter seeks the following relief:**
- 16.1 Amend Matter of Discretion 11.5.32(7)(v) so that adaptive management conditions can only be considered for: new consents; or a replacement consent if the consent it is replacing is already subject to adaptive management conditions.

Damming

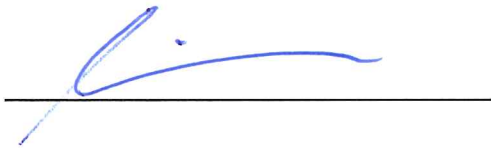
- 17 **This submission opposes Policy 11.4.31 and 11.5.42.**
- 18 Policy 11.4.31 and Rule 11.5.42 combine to prohibit damming in certain parts of the catchment. In doing so they foreclose some of the most economically viable storage opportunities. Water storage is vital in this area if growth within limits is to be facilitated. Variation 1 effectively precludes any growth based on groundwater. In this context, the proposed prohibited status on damming assumes high significance.
- 19 **The Submitter seeks the following relief:**
- 19.1 Amend Policy 11.4.31 and Rule 11.5.42 so that damming in those areas is wholly discretionary.

Cultural Impact Assessments

- 20 **This submission opposes Policy 11.4.32(b) and 11.4.32(c).**
- 21 The Submitter accepts the appropriateness of a Cultural Impact Assessment being undertaken where storage of Rakaia or Waimakariri River water is proposed. However, it opposes 11.4.32(b) as being unnecessary in light of (c), and the last part of (c) as usurping the decision-maker's functions. In short, it is for the decision-maker, not the Cultural Impact Assessment, to decide how any effects should be avoided or mitigated.
- 22 **The Submitter seeks the following relief:**
- 22.1 Delete Policy 11.4.32(b); and
- 22.2 Delete the words "...in accordance with the recommendations in the cultural impact assessment" from Policy 11.4.32(c).

- 23 **With respect to all of the specific items of relief set out in paragraphs 9, 12, 16, 19 and 22 above, the Submitter seeks any consequential amendments necessary to policies, methods or other provisions in order to give full effect to the specific relief sought.**
- 24 **The Submitter wishes to be heard in support of its submission.**
- 25 **If others make a similar submission, the Submitter would consider presenting a joint case with them at any hearing.**

Dated this 21st day of March 2014



A C Limmer
Counsel for the Submitter

ADDRESS FOR SERVICE:

Goodman Tavendale Reid
P O Box 442
Christchurch 8140
Attention: Alanya Limmer
15b Leslie Hills Drive
Ph: (03) 374 9999
Fax: (03) 374 6888
Email: alanya.limmer@gtrlaw.co.nz