

Janel Hau

From: Lucy Johnson <Lucy.Johnson@synlait.com>
Sent: Friday, 21 March 2014 2:12 p.m.
To: Mailroom Mailbox
Cc: Lucy Johnson
Subject: TRIM: Variation 1 submission
Attachments: SFLvariation 1 submission (2).pdf; 201403211408.pdf

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Hi Ecan,

Please find attached a submission on Variation 1 for the pLWRP for the Selwyn-Waihora catchment. This submission is on behalf of Synlait Farms Limited.

Many Thanks,
Lucy

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Environmental Manager

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Submission on Proposed Variation 1 to the Proposed Canterbury Land and Water Regional Plan

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Submitter ID:

File No:

Form 5: Submissions on a Publicly Notified Proposed Policy Statement or Regional Plan under Clause 6 of Schedule 1 of the Resource Management Act 1991

Return your signed submission by 5.00pm Friday 21 March 2014 to:

Freepost 1201 Variation 1 to pLWRP
Environment Canterbury
P O Box 345
Christchurch 8140

Full Name: LUCY-JANE ELIZABETH JOHNSON Phone (Hm): _____
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 Postal Address: 1028 HESLETON ROAD Phone (Cell): _____
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 Contact name and postal address for service of person making submission (if different from above): _____

Trade Competition

Pursuant to Schedule 1 of the Resource Management Act 1991, a person who could gain an advantage in trade competition through the submission may make a submission only if directly affected by an effect of the proposed policy statement or plan that:

- a) adversely affects the environment; and
- b) does not relate to trade competition or the effects of trade competition.

Please tick the sentence that applies to you:

- I could not gain an advantage in trade competition through this submission; or
- I could gain an advantage in trade competition through this submission.

If you have ticked this box please select one of the following:

- I am directly affected by an effect of the subject matter of the submission
- I am not directly affected by an effect of the subject matter of the submission

Signature: [Signature] Date: 21-3-14

(Signature of person making submission or person authorised to sign on behalf of person making the submission)

Please note:

(1) all information contained in a submission under the Resource Management Act 1991, including names and addresses for service, becomes public information.

- I do not wish to be heard in support of my submission; or
- I do wish to be heard in support of my submission; and if so,
- I would be prepared to consider presenting your submission in a joint case with others making a similar submission at any hearing

Dear Sir/Madam

Variation 1 Proposed Land and Water Regional Plan.

Synlait Farms Limited (SFL) owns 13 dairy farms in central Canterbury, making it one of the largest dairy farm operations in New Zealand with a total land holding of 4,390 hectares. SFL produced 5.3 million kilograms of milk solids in the 2012/2013 season. Synlait estimate that there is currently approximately \$13.8 billion of investment in dairy farms in the Canterbury region with an average size of 219ha (equivalent to c.\$8 million per farm).

Synlait has historically been involved in farm development and conversion to dairy, having developed over 4,000 hectares of dry pasture land into dairy farms, purchased over 800 hectares of existing dairy farms and developed a further 700 hectares for dairy support.

SFL's farms are located in the Canterbury region, one of the world's most productive pastoral dairy regions with access to reliable sources of irrigation water. Irrigation is fundamental to pastoral dairying in Canterbury and SFL has robust access to sufficient water to irrigate all of the farms.

The management philosophy has been to maintain high quality infrastructure and as a result SFL's assets are well invested. SFL sets high standards in environmental management and has invested in industry leading systems, processes and infrastructure to manage its environmental footprint. In order to allow further adoption of good practice, capital investment and production efficiencies sound regulation is required to drive such behaviours. Failure to allow this flexibility and ownership of issues may result in little to no environmental gains being made.

New Zealand's dairy industry is internationally recognised for its low cost, pasture based farming system, large-scale processing, innovations in new product development, and farm production technology. Certainty over the planning and regulatory environment in which SFL operate is paramount in maintaining these advantages and financial security to grow international markets opportunities for the industry.

Synlait Farms appreciate the opportunity to provide feedback on Proposed Variation 1 to the Proposed Land and Water Regional Plan (LWRP). We note the key following points:

- The importance of irrigation to the economic and social well-being of the region should be explicitly recognised;
- The importance of groundwater as a source for irrigation should be emphasised, and the more effective use of the water that has already been allocated should be encouraged.
- The justifications and science underpinning much of the water quality and quantity framework is weak and has not been strategically peer-reviewed before being adopted into the LWRP.

Synlait welcomes the opportunity to work with Environment Canterbury as the Variation 1 is refined. Please find a copy of our submission attached.

KEY CONSIDERATIONS

Synlait oppose Variation 1 of the proposed Land and Water Plan as is currently formulated due to inaccuracies with the allocations, new minimum flow restrictions, legal weight given to consented activities and the escalation of these and lack of certainty around rule implementation. As a result it is not clear how industrial and farming rules will be applied and is therefore unduly restricting business growth.

Synlait are concerned that when activities become prohibitive that there is a tendency not to keep focus on matters that may facilitate a deeper understanding or continual improvement of our science and research programmes. It is important that adequate investment remains focused on refining our understanding and bridging our data gaps to help ensure we achieve great outcomes that fit within the vision of the zone. An example of this is the 2nd and 3rd order allocations and shallow groundwater relationships in the zone.

There has been insufficient time to be able to review the myriad of reports used to set the policies, rules, and limits in the proposed V1 of Plan. There are still many uncertainties, such as around nitrogen limits, and yet strict limits are being imposed which have significant financial consequences to farming operations.

The requirements of the proposed V1 of Plan are difficult to interpret for the layperson therefore there will be more expense to engage consultants in order to comply with the requirements detailed.

Given the uncertainties in how annual allocation numbers have been defined, and the expectation that they will be refined over time, it would seem preferable for those allocation numbers to sit outside the plan as a schedule so formal plan reviews are not required as better science, understanding and modelling has the potential to alter the numbers and necessary resolutions.

There is an emphasis on reducing currently authorised rates of abstraction and restricting transfers, although this should not be required in areas where there are no over-allocation problems (such as the Little Rakaia Zone and the Kaituna Zone) or other zones once any over-allocation issues have been resolved. Also restrictions on water abstraction should not be applied to activities that have an overall non-consumptive effect on the resource – such as milk processing plants.

Similarly, restrictions on nutrient losses should only apply to land areas where there is a clearly understood flow path from the land to a surface waterway that is at risk from nutrient effects.

There are some policies around the management of the lake and of course the community and zone aspirations for the health of the lake. However there are no explicit rules relating to the mitigation strategies for the lake in Variation 1. This is concerning that while included in the ZIP addendum there is insufficient legal weighting that would require these strategies to be implemented. Without an undertaking that this will occur there is potential the aspirations and vision for the zone is not obtained, therefore leading to disengagement, lack of empowerment, accountability and personal ownership of being part of the solution.

The Plan looks to reduce allocation and reliability to current resource users on renewal of their consents. The plan should include explicit acknowledgement that Part 104(2A) of the RMA states that *the consent authority must have regard to the value of the investment of the existing consent holder.*

It is stated that *the CWMS is based on collaboration and integrated management to maximize opportunities for the community, environment and economy within an environmentally sustainable framework.* It is not only the environment which needs to be managed sustainably but also the ability of people and communities to provide for their social, economic and cultural wellbeing and for their health and safety, as stated in s5 of the RMA.

Synlait also wish to see the plan enable appropriate responses to adverse events (such as severe climatic conditions or other natural events) and to ensure other regulatory controls are not undermined by V1 allowing an ability to allow for exceedance of these limits in exceptional circumstances. For example, if there was a catastrophic failure of the CPW pipeline then people should be able to alternate to their groundwater permit, if there was a severe drought and import of supplementary feed may exceed baseline but avoid an animal welfare issue, crop failures and replanting to avoid fallowing land, irrigation or farm infrastructure was damaged and neighbours pooled resources to allow the farm system to function may all be legitimate reasons why the water quantity or quality provisions would need to be exceeded. This could occur in conjunction with professionals, industry and the regulatory framework should enable this to be undertaken.

Provision	Support / Oppose	Feedback	Change Sought
Policies			
11.4.1	Oppose in part	The policy is to “avoid cumulative effects”. This is unachievable as there will always be cumulative effects. The intention should be to avoid adverse cumulative effects.	Change wording to say, “...to avoid <i>adverse</i> cumulative effects on...”
11.4.6	Oppose	This policy looks to restrict the total load of nitrogen entering the lake by restricting losses through farming, industry and sewerage facilities in accordance with Table 11(i). Furthermore these limitations should not apply across the entire Zone, but only in those areas that clearly contribute nitrogen to Te Waihora/ Lake Ellesmere.	<p>There are some inaccuracies with the numbers specified within this Table 11(i). Ensure that numbers sit outside a plan to enable more streamlined changes to occur as new limits are considered.</p> <p>Have some set timeframes for review of the allocation figures throughout the life of this plan.</p> <p>Insert the following words, “...community sewerage systems <u>in those areas that most clearly contribute nitrogen to the lake</u> in accordance with the...”</p>
11.4.10	Oppose	<p>Requires industrial discharges to meet the limits set out in Table 11(i).</p> <p>It is our understanding that the 106T is intended to give sufficient allocation for all industrial discharges currently operating within the zone with a small allowance for future growth. We also understand that this is a mass of nitrogen draining to groundwater out the base of the soil profile, not a nitrogen load applied to the soil surface.</p> <p>We believe the allocation has not effectively measured all discharges within the zone and there are consented discharges not recognised for in the Lowe Report R13/8.</p> <p>Synlait want to ensure they have guaranteed processing capability for their milk supply and that of contracted suppliers to the company. Failure to adequately provide for industrial discharges has the ability to undermine our farming businesses.</p>	Adjust the allocation above 106T to capture all consented discharges and allow for future growth in the zone. This growth will only occur on the back of currently consented farming activity.

Provision	Support / Oppose	Feedback	Change Sought
11.4.11	Oppose	<p>Provides for discharges to land to exceed the industrial allocation so long as it is 'replacing' a farming activity and leaching from the soil is no greater than 15kg/N/ha/yr.</p> <p>This limit is restrictive and may not be seen as the best practicable option. The term 'replacing' is not clear and wastewater disposal and farming activity generally go hand-in-hand. Typically it is not easy to separate both activities out as they are mutually inclusive. It is unjustifiable that a wastewater discharge can occur to land at a loss no greater than other farming operations.</p> <p>Separating the losses resulting from wastewater and farming go hand-in-hand. As a result of land receiving wastewater the farming system changes and relies on the waste as a source of nutrients and irrigation water. Modelling through overseer would not capture these variances.</p>	<p>Amend policy 11.4.11 to enable the greater of the two loss provisions to be considered: Either <i>15kg/N/ha</i> or <i>The nitrogen baseline for the property.</i></p>
11.4.12	Oppose	<p>This policy sets out a number of requirements to reduce the discharges from farming activities. Synlait believe it would be more appropriate to have some realistic timeframes around the adoption of these practices and phase them in through a multipurpose awareness and educative programme.</p> <p>Furthermore, such reductions should only be required for contaminants and on land that clearly contributes the contaminant to Te Waihora/ Lake Ellesmere.</p>	<p>Allow for a lead in time for the implementation of practices associated with Schedule 24, especially for some land uses outside dairy.</p> <p>Allow for a lead in time for the implementation of stock exclusion.</p> <p>Have reference to any codes of practices outside the plan to allow for changes to be made and not require formal plan changes to occur when these side documents are updated.</p> <p>Facilitate a multi industry, working party to help develop awareness programmes and support the adoption of these practices on-farm. Support the adoption of these practices</p>

Provision	Support / Oppose	Feedback	Change Sought
			by getting resource users, industry and community involved in the framing of the communications, up skilling of professional capabilities and implementation strategies.
11.4.13	Oppose in part	<p>Synlait believe in the importance of good environmental practice and sound business stewardship. Farm Environment Plans will be important in the implementation and success of much of the principles underpinning this plan. Synlait have developed and implemented Lead with Pride™, a multi pillared approach to farm management. Synlait have a goal of ensuring all farms are accredited to the highest level of LWP by 2017.</p> <p>Synlait however oppose clause (b) as it is unclear at this time what 'good management practice' rates may look like, their impact on farm performance and the scope for achieving these until the MGM is released in 2015.</p> <p>Furthermore, such reductions should only be required for contaminants and on land that clearly contributes the contaminant to Te Waihora/ Lake Ellesmere.</p>	<p>Provide for a more robust definition of Good Management Practice and allow for some clear linkages on what these numbers may mean to business and communities.</p> <p>People cannot make a fair attempt to understand the impacts of this policy until the MGM work is complete and nutrient baselines are established.</p>
11.4.14	Oppose in part	<p>Synlait oppose clause (b) the reduction percentages currently allocated to various land uses within the catchment based on EBIT, with dairy accounting for 30% of the reduction load.</p>	<p>Amend to a more equitable reduction across industry.</p> <p>Furthermore it would be important to first accurately quantify the base loads and benchmark for operational performance before one can assign reduction targets.</p> <p>A better allocation mechanism may be provided at the hearing or discussed with industry prior to the hearing.</p>
11.4.16	Support in part	<p>Synlait support the importance of encouraging continual improvement and all land owners holding or reducing their losses</p>	<p>Synlait believe the 80kg/N/ha is a reasonable figure by which land owners should be</p>

Provision	Support / Oppose	Feedback	Change Sought
		to help ensure environmental enhancement. However Synlait would support the gathering of actual data to understand the scope of this impact on land owners.	operating at or below by 2037.
11.4.17	Oppose	Synlait are concerned with new irrigation under the CPW scheme to meet GMP plus 30% reduction without clearer understanding what this reduction and absolute number may look like on their business. Synlait also want to ensure all allocation numbers have a high degree of accuracy and would support peer review work and assurance from Council that they have used all appropriate data and modelling available to them.	Allow for lead in time for new irrigation as land owners currently cannot assess policy against operational requirements as GMP numbers through MGM have not been set.
11.4.20	Support in part	Synlait support these initiatives to help improve water quantity and quality provisions. However believe that current rules in the LWRP, 5.131 are too restrictive to ensure all available options can be deployed to achieve MAR.	Enable rules to help adoption of policy 11.4.20 by other sources other than water sourced from alpine rivers. Synlait support the inclusion of a policy around non consumptive water use helping to achieve these outcomes.
11.4.22	Oppose	Synlait is concerned the transfer provisions are overly restrictive and the use of CPW water is further limiting reliability to prohibiting the transfer of water. The quantification of current water use is a theoretical overstatement to justify an overly restrictive transfer regime.	Delete clause (a) Clause (b) is in contrary to policy 11.4.21 where everything is managed together so question the purpose of this. Clause (c) surrender volumes need to be considered in light of efficient irrigation.
11.4.23	Oppose	Synlait believe that this policy is not technically sound and does not drive good resource behaviour. Land values reflect the irrigation potential and productive worth of the farm, people have paid considerable costs to establish irrigation, Council gather rates on these values and consents hold a capital value, which can be traded under the RMA. There is growing concern over how water consented will be	Allocation should be based on technical efficiency and reliability. Do not decrease the rate rather just volume. Allocations must also allow for future growth of an activity, based on realistic expectations.

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		renewed for those with CPW shares whereby taking part of their allocation under CPW and topping up reliability with groundwater, as it will show less demonstrated use.	
11.4.24	Oppose	Synlait is unclear why water transferred permanently or temporarily should not be renewed.	Delete this policy as captured through changes in 11.4.23.
11.4.26	Oppose in part	Synlait are concerned that a premature requirement to limit reliability is setting irrigators up to not be efficient. It also places greater stresses on the community and resources at times of sustained summer months where feed supplies and supplement becomes limiting.	Synlait would like to seek technical guidance prior to the hearing around being efficient but having less reliability. Synlait support the adoption of continuing 9:10 year reliability especially in light of CPW scheme becoming operational in this timeframe.
11.4.27	Oppose	Synlait are concerned about the effectiveness of adaptive management for the environment. Coupled with policy 11.4.26 reducing reliability and 11.4.23 around renewals these permit holders are likely to be the first consents renewed in the catchment under this planning framework and already have significant limitations on the attractiveness of these consents without further impositions. Synlait believe that with a successful CPW or irrigation scheme enabling MAR or TSA then this policy may not be required.	Delete this policy.
11.4.30	Support	Synlait the support of taking of groundwater for productive purposes.	Include a clause: c) Where non consumptive water use returns a near equal net benefit back to the environment.
Rules			
11.5.6	Oppose in Part	Synlait believe that this rule should offer better clarity for land owners who receive industrial waste as a source of irrigation and/or nutrients. It would appear that while the Industrial or Trade waste may be consented under S15 of the RMA the S9 land use provision would still apply and both the land owner and the industrial user would	The property is used for the disposal of wastewater or liquid waste from an industrial or trade process and resource consent has been granted for that discharge that activity whereby providing restrictions on the amount of nutrients able to applied from the waste stream; or

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		<p>need consent.</p> <p>Synlait would encourage that this matter be addressed and clearly defined.</p>	<p>The property is less than 5 hectares; and</p> <p>The nitrogen loss calculation for the property does not exceed 15kg/N/ha/yr.</p>
11.5.7	Oppose in part	<p>This rule is permitted until 2017 however would encourage the phasing in condition (3) from July 2015 to allow land owners and industry to implement these practices across land uses.</p> <p>Synlait also have an issue with the definition of 'Nitrogen Loss calculation' and therefore object to condition (2) as currently worded.</p>	<p>Allow for a more realistic adoption timeframe for condition (3) as this is currently enforceable now.</p> <p>Amend definition of nitrogen loss calculation to enable effective farm management decisions to be made.</p>
11.5.8	Support	<p>Synlait support the permitted activity status and conditions of this rule for land users leaching less than 15kg/N/ha/yr.</p>	
11.5.9	Oppose in part	<p>Synlait understand that this requirement for consent may be re-addressed once the MGM work is completed. However Synlait object to point 1-2 of the matters of discretion.</p> <p>Condition 2 only requires the preparation of the Farm Environment Plan (FEP). It does not require the implementation. However a matter of discretion will be the quality and compliance of the FEP, which will be difficult to determine prior to lodging the consent application.</p>	<p>Matters of discretion should consider the effectiveness of FEP practices on meeting or reducing losses on-farm and not explicitly refer to 'compliance'.</p>
11.5.10	Support in part	<p>Synlait support the concept that allows land owners to operate as a 'farming enterprise'. It is unclear why this rule has to be discretionary when others are restricted discretionary and the zone should support the application of these consents, which may look to manage our nutrients in an innovative manner</p>	<p>Amend rule to be restricted discretionary.</p>
11.5.12	Oppose in part	<p>This rule prohibits any increase in nitrogen loss above the nitrogen baseline. That is considered appropriate for farms that clearly contribute nitrogen to Te Waihora/ Lake Ellesmere, but should not be prohibited on farms that do not clearly link to the lake.</p>	<p>Require the prohibited status to only apply to farms that clearly contribute nitrogen to Te Waihora/ Lake Ellesmere</p>
11.5.22	Oppose in	<p>This rule looks to control the discharge of sludge and bio-solids</p>	<p>Ensure that the allocation in table 11(i) is</p>

Provision	Support / Oppose	Feedback	Change Sought
	part	from domestic on-site wastewater facilities, as well as community wastewater treatment systems. It is unclear from the information on hand and within the timeframes assigned since the plan was notified if the allocation in table 11(i) effectively calculates domestic sludge from vacuum tanker operators and the likes. I cannot easily see if this allocation assigns any allocation to seepage pits within the catchment used by the likes of Drain Surgeon's or Robsons.	accurate and reflects the waste disposed off to land from emptying on-site domestic wastewater facilities.
11.5.32	Oppose in part	Synlait oppose in relation to comments as per policy 11.4.23, 24, 26, 27. Add a matter of discretion around non consumptive uses.	A matter of discretion: <i>Unless water is used for non consumptive purposes and can contribute to a net gain for the zone.</i>
11.5.36	Oppose in part	If rule 11.5.33 is not met the water take is prohibited. However condition 7 of that rule requires compliance with Schedule 12. Schedule 12 is a criteria used to determine if neighbouring bore owners should be notified, it does not automatically indicate an adverse effect. The other conditions of Rule 11.5.33 do not warrant prohibition.	The reference to Rule 11.5.33 should be deleted. Non-consumptive takes should not be prohibited. Takes in zones that are not over-allocated should not be prohibited.
11.5.37	Oppose in part	Synlait oppose certain conditions around the transferring of water permits, as outlined in policy 11.4.22.	
11.5.39	Oppose	Prohibition of transfers should not occur where the receiver of the transfer uses the water for non-consumptive purposes or where the transfer occurs within a zone that is not over-allocated.	Non-consumptive takes should be enabled to receive transfers, not be prohibited. Transfers in zones that are not over-allocated should not be prohibited.
Definitions			
Nutrient Loss Calculation	Oppose	Amend the nutrient loss calculation to allow for greater flexibility so long as the nutrient baseline is not exceeded. Reflect the change that commissioners are looking to adopt that so long as you operate at or below your highest given loss between 2009-	<i>Means the greater of:</i> The nitrogen loss calculation; or The annual discharge of nitrogen below the

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		2013 or until such time as MGM numbers are implemented.	root zone...
Baseline land use		Synlait would encourage a change to the application of this in light of those land owners who obtained a consent or change between 2009-2013 for discharge or building consents. This will enable a more equitable solution for those that converted 2007-2009 whereby their production would not yet achieved a stable and full productive worth.	