

Janel Hau

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To: Mailroom Mailbox
Cc: Laura Marra (laura.marra@trustpower.co.nz); Kirsty Joynt (kirsty.joynt@trustpower.co.nz)
Subject: TRIM: Trustpower Limited - Submission on Variation One
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Dear Sir / Madam

Please find attached a copy of Trustpower Limited's submission on Proposed Variation One to the Canterbury Land and Water Regional Plan.

We would appreciate it if someone could confirm receipt of this submission as soon as possible.

Kind Regards

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

21 March 2014

Trustpower Limited (“**Trustpower**”) makes the following submission on Proposed Variation One to the Proposed Canterbury Land and Water Regional Plan (“**Variation One**”). Trustpower’s submission on the individual provisions of Variation One is set out in the document attached as **Appendix A**.

Trustpower could not gain an advantage in trade competition through this submission.

Trustpower would like to be heard in support of its submission.

If other persons make a similar submission then Trustpower would consider presenting joint evidence at the time of the hearing.



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1 Introduction and overview

Trustpower is one of New Zealand's largest electricity retailers / generators. Trustpower's New Zealand electricity generation portfolio is primarily derived from renewable energy sources across 20 hydro-electric power schemes and two wind farms spread throughout the country.

Within the Canterbury Region, Trustpower owns and operates the Coleridge Hydro-Electric Power Scheme ("Coleridge HEPS") and the Montalto and Highbank Power Stations. The Montalto and Highbank Power Stations also form part of the water conveyance infrastructure that comprises the Rangitata Diversion Race. Trustpower is a shareholder in the company that owns and operates the RDR; being Rangitata Diversion Race Management Limited ("RDRML").

Trustpower is also strategically developing the Lake Coleridge Project over the medium term. In this regard, Trustpower successfully varied the National Water Conservation (*Rakaia River*) Order 1988 ("**Rakaia WCO**") in 2013 to enable the future consenting, construction and operation of the Lake Coleridge Project. The Lake Coleridge Project involves augmenting the use of the Coleridge HEPS in a staged manner so that water stored in Lake Coleridge is able to be utilised for enhancing irrigation reliability on the Canterbury Plains and additional hydro-electricity generation. The project will enable water stored in Lake Coleridge during defined flow conditions to be exempt from the minimum flow and flow sharing restrictions in the Rakaia WCO upon its subsequent release and use for irrigation.

The Lake Coleridge Project will deliver considerable benefits to the Canterbury Region. It is expected to initially support up to 45,000 ha of irrigation at high levels of reliability. Once integrated into the wider irrigation infrastructure on the true-left and true-right banks of the Rakaia River, the area supported could exceed 65,000 ha. In terms of electricity generation, the Lake Coleridge Project will have a combined generation capacity of approximately 30 MW and an annual generation output of 130 GWh (in addition to the existing generation produced by the Coleridge HEPS).

Against this background, Trustpower has a strong interest in the policies and rules that make up Variation One.

Appendix A: SPECIFIC SUBMISSION POINTS

AMENDMENTS TO SECTION 11 – SELWYN / WAIHORA

Provision	Submission	Requested Relief
<p>Section 11 – Selwyn / Waihora (Introduction)</p>	<p>The first paragraph of the introduction to Section 11 is supported in part by Trustpower. In this regard, the first paragraph explicitly states that <i>“this section does not set flow and allocation regimes for the Rakaia and Waimakariri Rivers. These are contained in the National Water Conservation (Rakaia River) Order 1998 and the Waimakariri River Regional Plan.”</i></p> <p>Notwithstanding the above, Trustpower notes that later provisions in Variation One do establish an allocation regime for the Rakaia River by virtue of the Little Rakaia Combined Surface and Groundwater Allocation Zone extending across the entire bed of the Rakaia River and the establishment of an allocation regime via Table 11(e). As such, the introduction to Section 11 is considered misleading with respect to Variation One’s actual restrictions.</p> <p>Trustpower do not consider Section 11 to be the appropriate location within the Proposed Canterbury Land and Water Regional Plan (“PLWRP”) to manage the surface water takes (and connected groundwater takes) from the Rakaia River. In this respect, the Rakaia River should be managed as an integrated resource from its source to the sea via Section 12 of the PLWRP and as per Objective 7.2.4 of the Regional Policy Statement.</p> <p>In particular, the current framework of Variation One fails to include any objectives or policies that guide the management of</p>	<p>Trustpower seeks the following relief from the Canterbury Regional Council:</p> <ol style="list-style-type: none"> Amend the first paragraph of Section 11 as follows: <ul style="list-style-type: none"> <i>“The area covered by this section is shown on the map below... This section does not set flow and allocation regimes for the Rakaia and Waimakariri Rivers. These are contained in the National Water Conservation Order (Rakaia River) Amendment Order 1998 2013 and the Waimakariri River Regional Plan.”</i> Delete the requirements of the Little Rakaia Combined Surface and Groundwater Allocation Zone from Variation One as they relate to the establishment of allocation limits and rules regarding water takes from the Rakaia River. Specific relief in relation to this matter is also set out in the submission points that follow. Any similar or consequential amendments to Variation One that stem from the submission and relief sought.

	<p>water takes from the Rakaia River (especially with respect to the 70 m³/s allocation regime) or recognise the importance of the river for hydro-electricity generation and irrigation purposes. This is compounded by the fact that the policies within Variation One which do apply to the use of water within the Selwyn – Waihora Catchment do not actually apply to the Little Rakaia Combined Surface and Groundwater Allocation Zone (or the Rakaia River) in light of the definition of the catchment in Section 11.1A and the catchment boundary on the planning maps.</p> <p>Finally, it is noted that the first paragraph of the introduction to Section 11 inappropriately refers to the Rakaia Water Conservation Order as being gazetted in 1998 – whereas it was initially gazetted in 1988 and formally amended in 2013. This should be rectified in the introduction to Section 11.</p>	
<p>Section 11 – Selwyn – Waihora (Introduction and Planning Maps)</p>	<p>The sub-regional catchment map in the introduction to Section 11 and the planning maps are supported by Trustpower. In this regard, these maps clearly show the extent of the Selwyn – Waihora Catchment not extending into the bed of the Rakaia River.</p> <p>It is, however, noted that material accompanying Variation One (e.g. http://ecan.govt.nz/publications/Plans/selwyn-te-waihora-catchment.pdf) define the Selwyn – Waihora Catchment as extending into the middle of the Rakaia River. This material is inaccurate and has the potential to create confusion with respect to the application of the policies and rules in Variation One governing water takes, land uses, and discharges within the Selwyn – Waihora Catchment. In addition, the accompanying material ignores the fact that the Rakaia River is defined as a</p>	<p>Trustpower seeks the following relief from the Canterbury Regional Council:</p> <ol style="list-style-type: none"> 1. Retain the sub-regional catchment map in the introduction to Section 11 and the boundaries of the Selwyn – Waihora Catchment in the planning maps as notified. 2. Ensure that all accompanying material to Variation One accurately records the Selwyn – Waihora Catchment terminating along the true-left bank of the Rakaia River (or similar). 3. Any similar or consequential amendments to Variation One that stem from the submission and relief sought.

	separate catchment via Section 12 of the PLWRP.	Trustpower seeks the following relief from the Canterbury Regional Council: 1. Amend the tenth paragraph of Section 11 as follows: <i>“This sub-regional section includes policies and rules in addition to those in Sections 4 and 5 of this Plan to support... The objectives and strategie policies in Sections 3 and strategic policies 4.1 to 4.6 in Section 4 of this Plan in conjunction with the Selwyn Waihora catchment freshwater outcomes in Section 11.6 are the catchments ‘freshwater objective’s’ in accordance with the National Policy Statement: Freshwater Management 2011.”</i> 2. Any similar or consequential amendments to Variation One that stem from the submission and relief sought.
Section 11 – Selwyn / Waihora (Introduction)	The tenth paragraph of the introduction to Section 11 – Selwyn – Waihora is supported in part by Trustpower. However, the paragraph refers to the objectives and policies in Sections 3 and 4 of the PLWRP as being the ‘freshwater objectives’ for the purposes of compliance with the National Policy Statement on Freshwater Management 2011. In contrast, Section 2.4 of the PLWRP only refers to the objectives in Section 3 and Policies 4.1 to 4.6 in Section 4 as being ‘freshwater objectives’. Trustpower consider that Variation One and the PLWRP need to be consistent with respect to what provisions constitute ‘freshwater objectives’. As such, it is considered that the tenth paragraph requires amendment to align with the direction provided within the PLWRP.	
Section 11.1A (Definitions – Selwyn Waihora Catchment)	The definition of ‘Selwyn Waihora Catchment’ in Section 11.1A of Variation One is supported by Trustpower as it ensures that the policies and rules specifically referring to the catchment do not apply to the Rakaia River.	Trustpower seeks the following relief from the Canterbury Regional Council: 1. Retain the definition of ‘Selwyn Waihora Catchment’ in Section 11.1A as notified. 2. Any similar or consequential amendments to Variation One that stem from the submission and relief sought.
Section 11.2 (Water Conservation Orders)	Section 11.2 is opposed in part by Trustpower as it inappropriately refers to the Rakaia Water Conservation Order being gazetted in 1998 – whereas it was initially gazetted in 1988 and formally amended in 2013. This error should be rectified in Section 11.2 of Variation One.	Trustpower seeks the following relief from the Canterbury Regional Council: 1. Amend Section 11.2 as follows: <i>“National Water Conservation (Rakaia River) Amendment Order 1998 2013.”</i> 2. Any similar or consequential amendments to Variation One that stem from the submission and relief sought.
Policy 11.4.21	Policy 11.4.21 is opposed by Trustpower. Whilst it is recognised	Trustpower seeks the following relief from the Canterbury Regional Council:

	<p>that groundwater and surface water should be managed as a 'single resource' in certain circumstances, the approach of managing groundwater and surface water as a single resource via the Little Rakaia Combined Surface and Groundwater Allocation Zone will result in Variation One addressing matters that are supposed to be managed via Section 12 of the PLWRP (by way of a future variation to the PLWRP).</p> <p>Furthermore, Policy 11.4.21 and the Little Rakaia Combined Surface and Groundwater Allocation Zone will not result in the Rakaia River Catchment being managed as an integrated resource from its source to the sea as per Objective 7.2.4 of the Regional Policy Statement.</p> <p>Finally, Trustpower considers that groundwater with a high degree of hydraulic connection with the Rakaia River should be managed via Section 12 of the PLWRP and the environmental flow and allocation regime established via the Rakaia WCO – particularly the 70 m³/s (which is understood to be status quo management regime for connected groundwater takes).</p>	<p>1. Amend Policy 11.4.32 as follows:</p> <p><i>“Manage groundwater and surface water within the Selwyn Waihora Catchment together as a single resource, to ensure, in combination with the introduction of alpine water into the catchment, flows in the Waikirikiri / Selwyn River and lowland streams are improved and the allocation limits in Table 11(e) are met.”</i></p> <p>2. Delete the requirements of the Little Rakaia Combined Surface and Groundwater Allocation Zone from Variation One as they relate to the establishment of allocation limits and rules regarding water takes from the Rakaia River. Specific relief in relation to this matter is set out in the submission points that follow.</p> <p>3. Any similar or consequential amendments to Variation One that stem from the submission and relief sought.</p>
<p>Policy 11.4.32</p>	<p>Policy 11.4.32 is supported in part by Trustpower as it seeks to enable the storage of water from the Rakaia River in order to improve irrigation reliability and a reduction in groundwater use.</p> <p>Notwithstanding the above, the requirement to commission a cultural impact assessment and implement the recommendations of the assessment with respect to managing adverse effects on cultural values is opposed. In this regard, it is considered that Policy 11.4.32 should focus on the management and mitigation of effects – not what technical assessments are commissioned by an applicant.</p>	<p>Trustpower seeks the following relief from the Canterbury Regional Council:</p> <p>1. Amend Policy 11.4.32 as follows:</p> <p><i>“Enable the storage of water from the Rakaia River and Waimakariri River to improve the reliability of supply of Irrigation Scheme water and support a reduction in the use of groundwater provided:</i></p> <p>(a) A Ngāi Tahu cultural impact assessment has been undertaken;</p> <p>and</p> <p>(b) <i>The mixing of water from different water bodies is avoided or mitigated through site specific design; and</i></p>

	<p>Policy 11.4.32 also implies that the implementation of all recommendations by Ngai Tahu (as part of a cultural impact assessment) will be necessary in order for a water storage proposal to be consistent with the sustainable management purpose of the Resource Management Act 1991 (“RMA”). Such policy direction is inappropriate as the requirement for any mitigation (be it ecological or cultural mitigation) should ultimately rest with the decision-maker on a resource consent application.</p> <p>Furthermore, Policy 11.4.32 also fails to acknowledge that some recommendations in a cultural impact assessment may be erroneous.</p> <p>Finally, Policy 11.4.32(d) refers to water storage proposals not inundating ‘known’ trout and salmon spawning areas. This approach is inappropriate as the use of term ‘known’ is imprecise (i.e. known to whom?) and fails to apply any test of significance to the avoidance of spawning areas (as clause (g) of the policy does).</p> <p>Trustpower consider that the requirement to avoid spawning areas should be based on an identified schedule within Section 11 – as per Schedule 17 of the PLWRP with respect to salmon and inanga.</p>	<p>(c) Adverse effects on cultural values are satisfactorily avoided or mitigated in accordance with the recommendations in the cultural-impact-assessment; and</p> <p>(d) Adverse effects on the availability and quality of existing community drinking water supplies are avoided; and</p> <p>(e) Inundation of existing wetlands is avoided or mitigated through site specific design; and</p> <p>(f) Adverse effects on fish passage are mitigated; and</p> <p>(g) Inundation of river reaches with significant indigenous vegetation or significant habitat of indigenous biodiversity is avoided; and</p> <p>(h) Inundation of known significant trout and salmon spawning areas identified in Table X is avoided; and</p> <p>(i) Infrastructure is designed to accommodate the effects of climate change.”</p> <p>2. Any similar or consequential amendments to Variation One that stem from the submission and relief sought.</p>
<p>Rule 11.5.25</p>	<p>Condition (3) of Rule 11.5.25 is opposed by Trustpower as the test of whether the proposed treatment and disposal methodology for the discharge of industrial wastewater is the ‘best practicable option’ is subjective and fails to enable resource consent applicants to determine the status of their proposed activity.</p>	<p>Trustpower seeks the following relief from the Canterbury Regional Council:</p> <ol style="list-style-type: none"> Delete Condition (3) from Rule 11.5.25. Any similar or consequential amendments to Variation One that stem from the submission and relief sought.

	<p>Trustpower do not consider that the activity status for a discharge of industrial wastewater can be determined on the basis of whether an option is the best practicable option available. Furthermore, the definition of best practicable option in the PLWRP recognises that any determination of whether an option 'is the best' involves a number of site-specific and qualitative factors.</p> <p>As such, it is considered that Condition (3) should be deleted from Rule 11.5.25.</p>	
<p>Rules 11.5.32, 11.4.34, 11.4.35 and 11.5.36, and Table 11(e)</p>	<p>Rules 11.5.32 – 11.5.36 are opposed by Trustpower as they introduce a rule framework for the taking of surface water from the Rakaia River and an allocation regime for the river – despite the introduction to Section 11 specifying that Variation One does not set allocation regimes for the Rakaia River.</p> <p>Trustpower do not consider Section 11 to be the appropriate location within the PLWRP to manage surface water takes (and highly connected groundwater takes) from the Rakaia River. In this respect, the Rakaia River should be managed as an integrated resource from its source to the sea via Section 12 of the PLWRP in a manner consistent with the environment flow and allocation regime authorised by the Rakaia Water Conservation Order. In particular, it is considered that any policies and rules managing the taking of water from the Rakaia River should be developed as part of an integrated framework that also recognises the importance of the river for hydro-electricity generation and irrigation purposes.</p> <p>In addition to the above, Trustpower have not seen any information in the material accompanying Variation One that details how the 85.9 Mm³ / year allocation from the Little Rakaia</p>	<p>Trustpower seeks the following relief from the Canterbury Regional Council:</p> <ol style="list-style-type: none"> 1. Amend the 'Advice Note' above Rule 11.5.32 as follows: <ul style="list-style-type: none"> <i>"Note: The taking and using of surface water from the Rakaia River or the Waimakariri River and groundwater with a hydraulic connection to the Rakaia River or the Waimakariri River is managed via the Regional Rules Conservation (Rakaia River) Order 1998 or the relevant provisions in the Waimakariri River Regional Plan 2004."</i> 2. Amend Rule 11.5.32 as follows: <ul style="list-style-type: none"> <i>"The taking and use of surface water from a river, lake or wetland or groundwater within the Selwyn Waihora catchment and including all areas within the Little Rakaia Combined Surface and Groundwater Allocation Zone is a restricted discretionary activity, provided the following conditions are met..."</i> 3. Amend Rule 11.5.34 as follows: <ul style="list-style-type: none"> <i>"Despite Rule 11.5.32 the taking and use of surface water or groundwater for the sole purpose of augmenting groundwater or surface water to increase stream flows in the Selwyn Waihora catchment and including all</i>

	<p>Combined Surface and Groundwater Allocation Zone has been calculated.</p> <p>The Section 32 Report only states that this allocation limit for the Little Rakaia Combined Surface and Groundwater Allocation Zone equates to the sum of annual volumes on existing surface and groundwater consents, and that the calculation is based on full annual volumes (and not effective annual volumes). However, there is no reference in the Section 32 Report that details when these volumes were calculated, what assumptions were applied, and what surface and groundwater consents were included (e.g. Central Plains Water and Barrhill Chertsey irrigation). As such, it is difficult for Trustpower to reconcile the accuracy of the allocation limit proposed and the implications for irrigators and the Lake Coleridge Project.</p>	<p>areas within the Little Rakaia Combined Surface and Groundwater Allocation Zone is a discretionary activity.</p> <p>4. Amend Rule 11.5.35 as follows:</p> <p><i>“The taking and use of surface water from a river, lake or wetland or groundwater within the Selwyn Waihora catchment and including all areas within the Little Rakaia Combined Surface and Groundwater Allocation Zone that does not meet Conditions 3, 4, 5 or 8 in Rule 11.5.32 is a non-complying activity.”</i></p> <p>5. Amend Rule 11.5.36 as follows:</p> <p><i>“The taking and use of surface water from a river, lake or wetland or groundwater within the Selwyn Waihora catchment and including all areas within the Little Rakaia Combined Surface and Groundwater Allocation Zone that does not meet Conditions 1, 2, 6 or 7 of Rule 11.5.32 or Rule 11.5.33 or Rule 11.5.34 is a prohibited activity.”</i></p> <p>6. Delete reference to the Little Rakaia Combined Surface and Groundwater Allocation Zone from Table 11(e).</p> <p>7. Any similar or consequential amendments to Variation One that stem from the submission and relief sought.</p>
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