

From: [Mary Aislabie](mailto:Mary.Aislabie@ecan.govt.nz)
To: [Sarah Drummond](mailto:Sarah.Drummond@ecan.govt.nz)
Subject: FW: Submission on Proposed Variation 1 to the Proposed Canterbury Land and Water Regional Plan
Date: Thursday, 27 March 2014 12:32:30 p.m.

fyi

From: Helen Atkins [mailto:helen.atkins@ahjmlaw.com]
Sent: Thursday, 27 March 2014 12:34 p.m.
To: Mary Aislabie
Cc: Sarah Drummond; Chris Keenan; Lynette Wharfe; Geeta Negi
Subject: RE: Submission on Proposed Variation 1 to the Proposed Canterbury Land and Water Regional Plan

Dear Mary

I act for Horticulture NZ.

Regarding its submission there was an attachment (Report by SKM/Jacobs) with it that was inadvertently sent at the same time. The attachment needs to be removed from the submission. I note that you haven't yet posted these on the website so I hope this is not too inconvenient for you to attend to.

Can you please confirm that there is no issue attending to this.

Kindest regards

Helen.

Helen Atkins
Partner

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From: Mary Aislabie [mailto:Mary.Aislabie@ecan.govt.nz]
Sent: Wednesday, 26 March 2014 2:23 p.m.
To: Geeta Negi
Subject: RE: Submission on Proposed Variation 1 to the Proposed Canterbury Land and Water Regional Plan

Dear Geeta,

Thank you for your submission to Variation 1 to the proposed Canterbury Land and Water Regional Plan. I can confirm receipt of your email.

Regards,

Mary

From: Geeta Negi [mailto:Geeta.Negi@hortnz.co.nz]
Sent: Friday, 21 March 2014 4:59 p.m.
Subject: Submission on Proposed Variation 1 to the Proposed Canterbury Land and Water Regional Plan

Greetings

On behalf of Horticulture New Zealand, please find attached submission on Proposed Variation 1 to the Proposed Canterbury Land and Water Regional Plan. Also kindly find attached report on Selwyn Waihora catchment modelling review.

Please confirm the receipt.

Regards

Geeta Negi

Resource Management & Environment Coordinator

Horticulture New Zealand | Our Growth Industry

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Level 4, The Co-operative Bank House | [20 Ballance Street](#) | [PO Box 10232](#) | [Wellington 6011](#)

New Zealand



The banner features a green and white color scheme with images of fresh produce like pomegranates and lemons. On the left, the logo for 'pma AUSTRALIA+NEW ZEALAND FRESH CONNECTIONS' is displayed with the tagline 'INNOVATE. COLLABORATE. THRIVE.' The central text reads '24-26 June 2014' and 'Viaduct Events Centre, Auckland, New Zealand'. Below this, logos for 'pma AUSTRALIA+NEW ZEALAND', 'THE AUSTRALIAN COUNCIL', 'Horticulture', and 'FRESH FEARS' are shown. On the right, a large orange circle contains the text 'Register Now!'. At the bottom, a green bar contains the 'Horticulture' logo and the text 'Incorporating the Horticulture New Zealand Conference in 2014'.

Helen

Tamina Roberts

From: Geeta Negi <Geeta.Negi@hortnz.co.nz>
Sent: Friday, 21 March 2014 4:59 p.m.
To: Mailroom Mailbox
Cc: Chris Keenan; Lynette Wharfe
Subject: TRIM: Submission on Proposed Variation 1 to the Proposed Canterbury Land and Water Regional Plan

Attachments: Selwyn Waihora catchment modelling review report 2014 final to client (H....pdf; Submission Var 1 HORTNZ FINAL 21 March 2013.pdf

Follow Up Flag: Follow up
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Categories: Purple Category
HP TRIM Record Number: C14C/44042

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On behalf of Horticulture New Zealand, please find attached submission on Proposed Variation 1 to the Proposed Canterbury Land and Water Regional Plan. Also kindly find attached report on Selwyn Waihora catchment modelling review.

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Regards

Geeta Negi

Resource Management & Environment Coordinator

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- INNOVATE. COLLABORATE. THRIVE @pma** AUSTRALIA + NEW ZEALAND FRESH CONNECTIONS
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- Viaduct Events Centre, Auckland, New Zealand**
- Logos for **pma AUSTRALIA + NEW ZEALAND**, **THE AUSTRALIAN FOUNDRY**, **Horticulture New Zealand**, and **ORIGIN FRESH**.
- A green bar at the bottom with the text: **Incorporating the Horticulture New Zealand Conference in 2014**
- The Horticulture New Zealand logo with the tagline "Our Growth Industry".

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

TO: Environment Canterbury

SUBMISSION ON: Proposed Variation 1 to the Proposed Canterbury Land and Water Regional Plan

NAME: Horticulture New Zealand

ADDRESS: PO Box 10 232
WELLINGTON

1. Horticulture New Zealand's submission, and the decisions sought, are detailed in the attached schedules:

Schedule 1: Overall comments
Schedule 2: Section 11 – Selwyn Waihora
Schedule 3: Section 11.1A Selwyn Waihora Sub-Regional Section definitions
Schedule 4: 11.4 Policies
Schedule 5: 11.5 Rules
Schedule 6: 11.6 Fresh water outcomes
Schedule 7: 11.7 Environmental Flow Regime and water quality targets/limits
Schedule 8: 11.11 Schedules

This submission is also made on behalf of the Horticulture Canterbury which incorporates fruit, vegetable and berry growers in Canterbury. Contact details are available from Horticulture New Zealand.

2. Horticulture New Zealand wishes to be heard in support of this submission.

3. Background to Horticulture New Zealand and its RMA involvement:

3.1 Horticulture New Zealand was established on 1 December 2005, combining the New Zealand Vegetable and Potato Growers' and New Zealand Fruitgrowers' and New Zealand Berryfruit Growers Federations.

3.2 On behalf of its 5,454 active grower members Horticulture New Zealand takes a detailed involvement in resource management planning processes as part of its National Environmental Policies. Horticulture New Zealand works to raise growers' awareness of the RMA to ensure effective grower involvement under the Act, whether in the planning process or through resource consent applications. The principles that Horticulture New Zealand considers in assessing the implementation of the Resource Management Act 1991 (RMA) include:

- The effects based purpose of the Resource Management Act,
- Non-regulatory methods should be employed by councils;
- Regulation should impact fairly on the whole community, make sense in practice, and be developed in full consultation with those affected by it;
- Early consultation of land users in plan preparation;

- Ensuring that RMA plans work in the growers interests both in an environmental and sustainable economic production sense.

4. Trade Competition

Pursuant to Schedule 1 of the Resource Management Act Horticulture NZ is not a body that could gain an advantage in trade competition through this submission.

Thank you for the opportunity to submit on the Proposed Variation 1 to the Proposed Canterbury Land and Water Regional Plan.



Chris Keenan
**Manager – Resource Management and Environment
Horticulture New Zealand**

Dated: 21 March 2014

Address for service:

Chris Keenan
Manager – Resource Management and Environment
Horticulture New Zealand
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WELLINGTON

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Schedule One: Overall comments: Approach to Selwyn Waihora Variation

It is not clear what the variation is intended to achieve. From one perspective the variation appears to seek a reduction in contaminants including nutrients generated from land-use activities to meet new load limits specified for waterbodies.

On the other hand, the variation is seeking to provide for a significant area of new irrigation and intensification. In our view, the primary objective is to provide for this intensification, and that is supported. Given this, setting water quality limits to phase out over allocation must not be the primary objective.

But we are unclear why landowners and land users in other parts of the water management unit are being compromised in terms of their opportunity cost, direct effects on their capital land values, reductions in the flexibility of the land use options, just to enable this new development that Council is promoting.

Section 2 of the section 32 analysis for Variation One outlines the planning context for the variation.

National planning context:

The National Policy Statement on Freshwater management has not been appropriately given effect to by the variation in our view. Instead, the Variation relies too heavily on structures set up under the Canterbury Water Management Strategy (CWMS), including appointed (not elected) Zone Committees. The basis for this emphasis appears to be the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010. But the Act only provide for regard to be had to the vision and principles of the Canterbury Water Management Strategy, not the entire strategy.

The Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 also notes the necessity to do this in addition to the consideration of matters relevant under the RMA, including The National Policy Statement on Freshwater Management and the processes outlined within that document. In particular, we do not agree that an appropriate consideration of values outside those identified in the CWMS has been undertaken, and those values have not been reflected in the setting of the load or flow limits, the allocation system proposed or the regulatory structure outlined in the Variation.

Values we don't think have been appropriately assessed include food production or cultivation values, values associated with food security, economic and social well-being. In our view without assessing the effect on these values of the proposed limits, the section 32 analysis has not met its requirements under the Resource Management Act, particularly the requirements as amended by the Resource Management Amendment Act 2013 ("Amendment Act").

In our view, the section 32 analysis does not contain level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal. There has not been an appropriate analysis of the economic growth that is anticipated to be provided or reduced and the employment that is anticipated to be provided or reduced by the proposal. Additionally, we do not think the risk of acting by initiating the variation has been accurately assessed.

Regional Planning Context:

Horticulture New Zealand is a party to some of the appeals to the High Court on the proposed Land and Water Regional Plan, although we are not an appellant in our own right.

Section 2.2.3 of the section 32 analysis notes that the Council's intention that the sub regional sections of the proposed LWP [such as Variation one] will be the subject of plan changes to incorporate results of collaborative planning processes under the Canterbury Water Management Strategy. It is our view that these collaborative processes should not be under the Canterbury Water Management Strategy, but more so guided by the proposed and existing National Policy Statement on Freshwater Management (NPS – FW). The Zone Committees are not elected, they are appointed. They have been tasked with providing a view on the setting of limits and the process to manage within those limits; and this is a function under the NPS not under the CWMS.

We have worked collaboratively with Council, Ngai Tahu and the primary sector groups in Canterbury to try and find a correct approach to managing the effects of land use on water quality in the Selwyn Waihora water management unit and the rest of Canterbury & New Zealand. We are co-funders of work on the Matrix of Good Management (MGM) project that is part of our broader environmental management programme. This work is not yet complete. So we are unable to determine what the full effect of setting a limit will be, in the absence of not understanding what farms can achieve under good management practice. Without understanding the effect of the limit, and the effect of the transition time proposed in the Variation, the section 32 analysis is unlikely to be correct, or detailed enough to meet the requirements of section 32 as noted above.

In all fairness, without the information being available to the Zone Committee. It is hard to see how they could have made an adequate assessment of the effects of setting the limit and the very short transition time which has been provided for to meet the limit.

However, what is more concerning is the inclusion in the section 32 of a "summary of consensus" described in appendix 9. This approach was not agreed by Horticulture New Zealand and we were not provided with an opportunity to the Zone Committee on whether or not this was a consensus view. So we disagree with the statement made in section 4.4 of the section 32 on page 23. Specifically;

- Action 2 is too generic,
- Action 3 was never agreed,
- Action 4 was not agreed but is supported,
- the detail of Action 5 is not supported or agreed; and
- Action 6 does not reflect the reality of the planning situation for enterprises under the proposed Land and Water Regional Plan.

This may reflect that Horticulture New Zealand was only provided a very short, and limited opportunity to present specific policy views or to update the zone committee on our work programmes. Additionally, only recently has a horticultural grower been part of the Zone Committee.

We see one of the key issues of this Variation is the conflicting objectives of enabling a large scale community irrigation scheme at the same time as declaring a catchment load limit that has or will be exceeded. Perhaps a better approach would be a series of plan changes which deals with each matter in turn. If Council's primary objective is to enable a Community Irrigation Scheme, the Council should do that first. Following that, the Council should then set up a limits

framework with the full knowledge of what they have consented to in terms of the scheme development. That way appropriate decisions can be made about who should share the cost of meeting the target proposed if allocation of nutrients is required to be phased out by existing growers and farmers not benefiting directly from a scheme. If there are some benefits to these other growers and farmers, then they should be very accurately quantified and assessed.

For example, it has been promoted that new water from the community irrigation scheme will improve the reliability of access to water for irrigation in the lower catchment. This should be quantified. Also, there needs to be some identification of whether more reliable water can be utilised by existing farms if they are not able to access nutrients to take advantage of the more reliable water.

Science-based approach:

Horticulture New Zealand is aware that Council has spent significant funds on the development of a new interactive catchment model, but has chosen not to deploy this model in the Selwyn – Waihora Water Management Unit. We are co-funding an international peer review (attached with this submission) of the science-based approach, and may as a result of that commission an interactive catchment model to better inform our policy development for this Variation.

So this submission has been developed to provide enough scope for our information to inform Commissioners, Council and submitters. The submission must be read in that context. We undertook a similar approach for development of the Ruataniwha Water Storage Scheme that has recently been through the Environmental Protection Agency and is awaiting decisions.

Development of good management practice: Horticulture New Zealand is committed to supporting growers and farmers to develop good and best management practices that ensure farmers have the right tools to make sound environmental decisions within the context of their businesses. We are also providing support through development of an industry audited self-management scheme to support Council objectives to validate and evaluate that the actions described are actually undertaken and how effective those actions have been.

This work program presents grower organisations with a significant burden because regional councils across New Zealand are requiring work to be completed at the same time and for similar reasons, but are not cognisant of what expectations they are placing on extension providers and system developers. The timeframes for this Variation have set Horticulture New Zealand up for failure; because we are incapable of delivering the system within the timeframes that would be required to identify what the effect of the limit will be.

This does not mean Horticulture New Zealand will not complete the work. Nor does it mean that Horticulture New Zealand and growers don't recognise that we have a responsibility to manage within limits. However, we do not expect to unfairly share the burden of a significant economic development opportunity in the water management unit unless it can be shown that the benefits outweigh the costs.

Equality of allocation regime

The Variation is predicated on a total catchment nutrient load which is then divided between users. The allocation is not equal across all existing users as there is a preferential nutrient allocation to CPW users (including new users) based on the CPW consent with the consequence that those outside the CPW area are cut back to enable the CPW allocation.

Therefore existing users outside of CPW are required to reduce nutrient allocations while new users within the CPW scheme have new nutrient allocations. Had growers outside of the Central Plains Water area been aware that this would be a consequence of the CPW consents then they may have been involved in the CPW consent process. There are questions of natural justice that need to be addressed in this situation.

Modelling uncertainties and assumptions used and Section 32 Report

The submitter has undertaken a preliminary review of the material including modelling in support of the variation. This preliminary work indicates that there are some fundamental flaws in the modelling undertaken by Council which has led to the allocation approach taken by Council. The submitter is continuing to develop this work in more detail with a view to present the outcome of this at the hearings on the variation. Suffice to say here that there is sufficient evidence now to suggest that the variation will need significant work and may need to be withdrawn in order to address the issues arising.

The Section 32 report is based on the material and modelling undertaken by Council and by implication is subject to the same criticisms that can be levied at that modelling work. Therefore the Section 32 evaluation itself is challenged by this submission as no meeting the requirements of the Act.

Decisions sought:

Withdraw Variation 1.

OR

Withdraw the parts of the Variation that do not relate to Community Irrigation Schemes

AND/OR

Such other changes as are necessary to give effect to the matters raised in this submission.

AND/OR

Such other consequential changes as are necessary.

Schedule Two: Section 11 – Selwyn Waihora

- 2.1 Section 11 is a description of Selwyn Waihora zone. It outlines the importance of Te Waihora/ Lake Ellsemere as a taonga for Ngai Tahu and as a nationally significant wetland, and the vision for the catchment. It describes the issues arising from water use and land use but does not describe the importance of the area in terms of agriculture, in particular food production and contributions to social and economic wellbeing.

It is important that a description adequately describes the zone. The vision seeks to 'maintain the prosperous land-based economy and thriving communities' but the description does not address this.

In addition the sustainable water management priorities developed by the Selwyn Waihora Zone committee are sought to be deleted. They set an important framework for the Variation and should be retained.

Decision sought:

Amend Section 11 by adding a new paragraph:

Selwyn Waihora is an important area for agriculture and food production which provides significant employment in the area, both on-farm and in processing and service industries. The social and economic wellbeing of the community is reliant on the agricultural industry and it is important that it is retained so that the communities can thrive.

- 2.2 Values and Freshwater objectives

The Variation does not include any specific objectives for Selwyn Waihora or specify the values for the zone, rather relying on the framework in the proposed Land and Water Plan.

However given the regulatory approach to Selwyn Waihora it is important that the values for the zone are stated and that there are objectives that reflect the values. In particular there needs to be a value relating to food production and the importance to the social and economic wellbeing of the community.

Decision sought:

Add a new Objective and to recognise and provide for the nationally significant benefits of food and fibre production and their contribution to economic, social and cultural wellbeing.

Amend policies, rules, and methods consequentially.

Schedule Three: Section 11.1A Selwyn Waihora Sub-Regional Section definitions

- 3.1 Section 11.1A refers to the definitions contained in Section 2.10 of the Plan. The section has been renumbered and is now Section 2.9.

Decision sought:

In section 11.1A amend references to 2.10 to 2.9.

- 3.2 Baseline land use

The definition of baseline land use is reliant on the definition of 'property' and 'nitrogen baseline' in Section 2.9.

The definition for baseline land use only refers to the land use, or uses on a property between 1 July 2009 and 30 June 2013 used to determine a property's 'nitrogen baseline'.

The definition of nitrogen baseline provides for a baseline to be based on the farming enterprise in accordance with Rule 5.46 – that is 'an aggregation of parcels of land held in single or multiple ownership that constitutes a single operating unit for the purpose of nutrient management.'

It is important that the provisions in chapter 11 adequately provide for farming enterprises where the nutrient baseline is a total kg per annum from the identified area of land. This is particularly relevant to growers who share or lease land with the operation spanning a range of properties.

Decision sought:

Amend the definition of 'Baseline land use' by adding after 'property': 'or farming enterprise'.

- 3.3 Good management practice nitrogen and phosphorous loss rates

The definition of good management practice nitrogen and phosphorous loss rates is also based on 'property'.

The definition is used as a basis for rules in the Variation but there is uncertainty as to how the loss rates will be derived, especially for horticultural production systems where the range of factors in the farm system vary. Caution is sought on the application of this definition.

Decision sought:

Amend the definition of 'Good management practice nitrogen and phosphorous loss rates' by adding after 'property': 'or farming enterprise'.

Schedule Four: 11.4 Policies

Managing land use to improve water quality

4.1 Policy 11.4.6

Policy 11.4.6 seeks to limit the total nitrogen load in accordance with the figures in Table 11 (i), with the target for farming to be 4830 tonnes/year to be met by not later than 2037. Horticulture NZ is concerned at the methodology that has led to the figure of 4830t, the timeframe for it to be implemented and how it will be determined at a farm level without severely impacting on growers operations and the production of food.

There needs to be scope to revise the figures in Table 11 (i) as models are refined and more certain data produced.

Decision sought:

Amend Policy 11.4.6 as follows:

Reduce the total nitrogen load entering Te Waihora/ Lake Ellsemere by reducing the losses of nitrogen from farming activities, industrial and trade processes and community sewerage systems.

Add a new policy:

Targets and limits set in this variation will be reviewed before 2017 to ensure that the refinements in methodology and models used are reflected in the allocation and targets and limits set.

4.2 Policy 11.4.12

Policy 11.4.12 seeks to limit a property's nitrogen loss calculation and makes no provision for 'farming enterprises'.

The policy seeks to limit the discharges of nitrogen to no more than the nitrogen baseline, which is taken as a rolling four year average between 2009- 2013. Such an approach provides no flexibility for operations that vary over time because of rotations across multiple properties. There needs to be provision to make adjustments to the nitrogen baseline where it can be demonstrated that the four years 2009 – 2013 do not accurately represent the nature of the operation. In a horticultural operation where crops are grown rotationally, the nature of the rotation in those 4 years will determine the nitrogen baseline, but may not accurately reflect the nature of the operation over a longer or different time span. There needs to be flexibility for such variations to be assessed as part of a consent process.

In addition the nitrogen baseline should be based on the highest number between 2009- 2013, not a rolling average.

There is a presumption that the policy is to 'reduce discharges of nitrogen....' If a property is working to the 'nitrogen baseline' there may not be a 'reduction'. It would be better if the policy approach is to 'manage discharges of nitrogen....'

Decision sought:

Amend Policy 11.4.12 by replacing 'Reduce' with 'Manage'.

Amend Policy 11.4.12 by adding after 'property': 'or farming enterprise'.

Amend Policy 11.4.12 By

Ensure that the 'nitrogen baseline' is based on the highest year between 2009 – 2013, not the rolling average.

Add to a new policy: The nitrogen baseline for a property or enterprise can be re-assessed where it can be demonstrated that the 4 years 2009-2013 do not accurately reflect the nature of the operation.

4.3 Policy 11.4.13

The policy is based on, from 1 January 2017, the replacement of the nitrogen baseline with the loss rates calculated using the Good Management Practice Nitrogen and Phosphorous Loss Rates (GMPNPLR) for the property's baseline land use. The policy means that:

- The calculation is tied to the land use from 2009 – 2013, even if the land use has changed or is in a different cropping rotation phase;
- The GMPNPLR for the property or enterprise will apply regardless of the nitrogen baseline.

The GMPNPLR are yet to be developed so the effect of this policy cannot be determined. Given the uncertainty a tool that is currently in development should not be implemented in a regulatory manner without a s32 analysis being undertaken and be inserted into the Plan through a First Schedule process.

The policy should be amended to only require the preparation of Farm Environment Plans from 2017.

Decision sought:

Amend Policy 11.4.13 as follows:

From 1 January 2017 require farming activities where a property is greater than 50 hectares to implement a Farm Environment Plan prepared in accordance with Schedule 7 Part A.

We also seek that the intergenerational nature of overallocation is addressed by setting longer timeframes for transition to managing within the new limit that is set. Given that the state of water quality in the water management unit has been created over significant time periods, we consider it may be necessary to transition to a more desirable state over a longer and perhaps an intergenerational timeframe.

4.4 Policy 11.4.14

The policy seeks to reduce nitrogen losses from 2022 by a % figure based on the GMPNPLR calculation from Policy 11.4.13 b). It is understood that the percentage

reductions are based on 7% reduction in EBIT for the different farming types.

Horticulture NZ seeks the deletion of Policy 11.4.13 b) until such time as the GMPNPLR have undergone a s32 analysis and a First Schedule Plan Change process. It is inappropriate for a policy of reductions to be based on a yet unknown tool where the quantum and effect of the reductions is unable to be calculated. In particular the EBIT effect of the reductions will not be known until the GMPNPLR are quantified. There are concerns as to how the EBIT calculations have been derived and the matters that are taken into account.

Decision sought:

Delete Policy 11.4.14., or amend the policy to take into account revised assessments that are developed through the process to better reflect the impact on jobs and economic development opportunities.

4.5 Policy 11.4.15

Policy 11.4.15 seeks to put in place a number of criteria that may be applied where an operation does not meeting the required reductions. While the policy refers to Policy 11.4.14 which Horticulture NZ seeks be deleted, there is merit in establishing criteria where nitrogen limits or targets may not be met.

In respect of horticulture it is important to recognise that the rotational cycle will lead to variations that need to be accounted for. Rotations are an important component of sustainable management and need to be recognised and provided for in the policy framework.

The policy should be based on the nitrogen baseline as the known and quantified factor.

Decision sought:

Amend Policy 11.4.15 as follows:

Where a property or farming enterprise cannot achieve the nitrogen baseline an extension of time to achieve the nitrogen baseline will be considered having regard to:

- a) ...
- b)...
- c) The nature of the operation and the accuracy of the nitrogen baseline figure for the operation or property.
- d) The nature of the operation and limitations in achieving the nitrogen baseline.
- e) Change of land use from the 'baseline land use'.
- f) The costs association with achieving the nitrogen baseline.

4.6 Policy 11.4.16

The policy requires that by 2037 no property or farming enterprise shall leach more than 80kgs of n/p/h/yr.

Some farms may leach more than this, and the policy may not provide appropriately for those properties. We would rather see that the total contribution of farms is managing within the limits. For example if a farm is able to transfer nitrogen from other farms not

utilising fully their allocation for any given year there may be potential for managing within limits without setting a hard high limit in the policy as proposed. In addition the policy may not provide an appropriate timeframe to reduce N, or maybe the property or farming enterprise has significant other mitigation opportunities to manage other contaminants that have been implemented.

Decision sought:

Delete the policy. Replace the policy with a more flexible set of instruments to manage within limits.

4.7 New Policy

There needs to be provision in the Variation for a transfer regime for nitrogen to ensure that there is the ability to change land use, while still being limited by the catchment load limit.

Decision sought:

Add a new policy and commensurate permitted activity rules and methods to enable transfer of nitrogen within and between enterprises and farms within the same water management unit, or similar rules and methods to give effect to development of a transfer system.

Sustainable use of water and improved flows

4.8 Policy 11.4.21

A review of the reports on which Table 11 (e) is based have raised concerns about the methodology. There needs to be a review of the basis for the Table and ensure that the figures derived are robust.

Decision sought:

Review the methodology for Table 11e) and amend accordingly.

4.9 Policy 11.4.22

Policy 11.4.22 seeks to limit the transfer of water permits, and where transfer does occur 50% must be surrendered.

Transfer is an appropriate mechanism to ensure efficient allocation and use of water. Penalising the use of transfers by requiring surrenders is not an efficient and effective method and is inconsistent with the National Policy Statement for Freshwater Management which requires efficient allocation and use of water. It will limit the use of temporary transfer that could significantly increase the effectiveness of water use across water user groups and help farmers to manage within environmental limits.

Decision sought:

Delete 11.4.22 c).

4.10 Policy 11.4.23

The policy seeks to reallocate water to existing users at a rate and volume that reflects demonstrated use. The policy does not state how 'demonstrated use' will be assessed. For horticultural operations there needs to be consideration of the rotational nature of the operation where use may vary according to the location and crops grown.

Decision sought:

State how demonstrated use will be assessed and ensure that crop rotation is a consideration in that assessment.

4.11 Policy 11.4.24

The policy intends to not include water transferred to another site and not used by the consent holder as part of a replacement consent. It needs to be clear how the 'not used' will be assessed. For horticultural operations there needs to be consideration of the rotational nature of the operation where use may vary according to the location and crops grown.

Decision sought:

State how 'not used' will be assessed and ensure that crop rotation is a consideration in that assessment.

4.12 Policy 11.4.25

Policy 11.4.25 requires that an annual volume being applied in accordance with Method 1 in Schedule 10. Method 1 is based on a 9 out of 10 year reliability which is supported. Amendments are sought to the Variation to ensure that 9 out of 10 years is the reliability factor for the zone/

Decision sought:

Retain Policy 11.4.25.

Amend Variation to ensure that the reliability factor is 9 years out of 10.

4.13 Policy 4.11.26

Policy 4.11.26 is based on a eight and a half out of ten years reliability. This is insufficient for horticultural production so a reliability factor is 9 years out of 10 is sought, consistent with the proposed Land and Water Plan.

Decision sought:

Amend Policy 11.4.26 to a reliability factor is 9 years out of 10.

4.14 Policy 11.4.28

A review of the reports on which Table 11 (c) and (d) are based have raised concerns about the methodology. There needs to be a review of the basis for the Table and ensure that the figures derived are robust.

Decision sought:

Review the methodology for Table 11 c) and d) and amend accordingly.

4.15 Policy 11.4.29

Policy 11.4.29 provides consideration where there is a significant loss of reliability due to the minimum flow and restrictions regime in Table 11c). There needs to be clarity as to how that assessment would be made and a balancing of the values for the waterbody.

Decision sought:

Ensure that any assessment under Policy 11.4.29 considers all relevant values and objectives.

4.16 Policy 11.4.30

Existing resource consent holders are only able to continue taking groundwater where an existing consent with a direct or high stream depletion effects greater than 5 l/s has been surrendered. This is considered to be too onerous a requirement and provides for no transition times or times for the effects of the CPW scheme to have an effect on groundwater levels.

Decision sought:

Delete 11.4.30 b).

Schedule Five: 11.5 Rules

Nutrient management, sediment and microbial contaminants

5.1 Rule 11.5.7

Rule 11.5.7 provides for the farming activity to be permitted until 1 January 2017 subject to not exceeding the nitrogen baseline and other conditions. However the provisions are all related to 'property' and do not provide for 'farming enterprise.'

Decision sought:

Amend Rule 11.5.7 by adding after the words 'property': 'or farming enterprise'.

5.2 Rule 11.5.8

Rule 11.5.8 provides for the farming activity to be permitted from 1 January 2017 subject to the nitrogen loss not exceeding 15 kg/ht/yr and other conditions. However the provisions are all related to 'property' and do not provide for 'farming enterprise.'

Decision sought:

Amend Rule 11.5.8 by adding after the words 'property': 'or farming enterprise'.

5.3 Rule 11.5.9

Rule 11.5.9 provides for the farming activity after 1 January 2017 as a Restricted Discretionary rule subject to meeting conditions. However the provisions are all related to 'property' and do not provide for 'farming enterprise.'

The discretion includes consideration of the Good Management Practice Nitrogen and Phosphorous loss rates that are included in Policy 11.4.13 and 11.4.14. Horticulture NZ has sought the deletion of the GMPNPLR as they are not yet known and it is unreasonable to include in a plan tools that are not yet developed. Therefore matters 2 and 3 should be deleted

Decision sought:

Amend Rule 11.5.9 by adding after the words 'property': 'or farming enterprise'.
Delete Matters of discretion 2 and 3.

5.4 Rule 11.5.10

Rule 11.5.10 provides for assessment of a farming enterprise as a discretionary activity if the nitrogen loss calculation has not increased above the nitrogen baseline. Where an operation includes multiple properties the 'farming enterprise' assessment provides the opportunity for the whole operation to be assessed.

However it is considered that a discretionary activity status is not required and farming enterprise should be included in the rules relating to properties or a specific restricted

discretionary rule that includes assessment of the crop rotational system and compliance with industry good practices. It appears that a consent for a farming enterprise would be required before 2017. This presents some difficulties as prior to incorporation of the GMPNPLR through a Plan Change it would not be possible to base the consent on the un-incorporated practices.

Decision sought:

Delete Rule 11.5.10 and provide for farming enterprises in Rules 11.5.7 – 11.5.9.

Or:

Provide an RDA rule for farming enterprises that takes into account the rotational nature of the operation and industry good management practices.

5.5 Rule 11.5.12

Rule 11.5.12 is a prohibited activity rule if the nitrogen loss calculation is increased over the nitrogen baseline. It is considered that Rule 11.5.12 should be non-complying to allow consideration given the uncertainties with establishing the nutrient baseline and the methodology on which it is based. A non-complying rule allows for consideration of an application where a land user can demonstrate the effects of the activity.

Decision sought:

Delete Rule 11.5.12 and combine with Rule 11.5.11.

Irrigation schemes

5.6 Rule 11.5.14

Rule 11.5.14 is predicated on the listing of an Irrigation Scheme in Table 11 j). Therefore any future irrigation scheme would require a plan change to be listed in the plan. There should be a definition for irrigation schemes so that any future scheme is included under the definition without requiring a plan change.

Decision sought:

Amend Rule 11.5.14 (2) by deleting “listed in Table 11 j)”

Include a definition of irrigation scheme as follows:

A collective of farming enterprises collaborating to make use of a common water resource.

5.7 Rule 11.5.15

Rule 11.5.15 is predicated on the listing of an Irrigation Scheme in Table 11 j). Therefore any future irrigation scheme would require a plan change to be listed in the plan. There should be a definition for irrigation schemes so that any future scheme is included under the definition without requiring a plan change.

Decision sought:

Amend Rule 11.5.15 (1) and (2) by deleting “listed in Table 11 j)”

Include a definition of irrigation scheme as follows:

A collective of farming enterprises collaborating to make use of a common water resource.

Taking and use of Surface water and take and use of groundwater

5.8 Rule 11.5.32

Rule 11.5.32 provides for the taking and use of surface water and groundwater as a restricted discretionary activity if it does not result in any exceedance on the allocation limits in Table 11 (e), 11 (f) and 11 (g) or it is a replacement of a lawfully established take that meets the specified conditions, including reference to Table 11 c) and 11d).

A review of the reports on which Table 11 c), d), (e), (f) and g) are based have raised concerns about the methodology. There needs to be a review of the basis for the Table and ensure that the figures derived are robust.

Condition 6 refers to Method 1 in Schedule 10 which is based on a 9 year out of 10 reliability factor. This reliability factor is supported.

Decision sought:

Review the methodology for Table 11 c), 11 d), 11e) 11 f) and 11 g) and amend accordingly.

Retain a reliability factor of 9 years out of 10.

Include a matter of discretion that considers the rotational nature of the operation.

5.9 Rule 11.5.33

Rule 11.5.33 applies to the taking and use of groundwater and renewal of consent where there is a direct or high stream depletion effect greater than 5 l/s and the existing consent is surrendered and provision made for a replacement consent from a location which will not have direct or high stream depletion effects. In other words there a consent holder will be required to develop a new bore to be able to exercise a replacement consent.

Decision sought:

Retain the rule as notified

Transfers

5.10 Rule 11.5.37

Horticulture NZ supports the transfer of water permits as a mechanism to enable efficient allocation and use of water, consistent with the National Policy Statement for Freshwater Management.

However the provisions in the Variation, particularly the requirement to surrender 50 % of the volume is not supported. The Proposed Land and Water Plan as notified had a

requirement for surrender but as a result of submissions the surrender clauses were deleted in the decisions version with a matter of discretion relating to the need for reduce over-allocation added, but no set surrender figure is stated. Horticulture NZ considers that the p Land Water Plan provisions should apply to Selwyn Waihora Zone and there should not be a mandatory surrender percentage, particularly where the transfer is a short term transfer. Such a surrender requirement is a disincentive to transfers and sustainable management of the resource.

Decision sought:

Delete Rule 11.5.37 4).

5.11 New rule sought: nitrogen transfer.

To enable flexibility of land use Horticulture New Zealand seeks a controlled or permitted activity transfer rule to be overseen by Council to provide for transfer of nutrients within or between properties within the water management unit where it can be demonstrated the transfer will not cause an increase that exceed the provision for the total nutrient load limit for the water management unit.

Decision sought:

Construct a new rule and method framework to support the policy requested on transfer of nutrients

Schedule Six: 11.6 Fresh water outcomes

6.1 11.6 Fresh water outcomes

The tables in 11.6 set out the freshwater outcomes for the Selwyn Waihora catchment.

Horticulture NZ has raised concerns with the methodology and reports on which these figures are based. It is considered that the tables need to be reconsidered along with a revised s32 Report and informed by a scientific review and the attributes required to meet the proposed National Objectives Framework.

Decisions sought:

Reconsider Tables 11 a), and 11 b) as part of a revised Section 32 Report informed by a scientific review and the attributes required to meet the proposed National Objectives Framework

Schedule Seven: 11.7 Environmental Flow Regime and water quality targets/limits

- 7.1 Section 11.7 establishes environmental flow and allocation regime and water quality targets and limits.

Horticulture NZ has raised concerns with the methodology and reports on which these figures are based. It is considered that the tables need to be reconsidered along with a revised s32 Report and informed by a scientific review and the attributes to meet the proposed National Objectives Framework.

Decisions sought:

Reconsider Tables 11 c) 11 d), 11 e) 11 f) 11 g), 11 h) 11 i), 11 j) 11 k) 11 l), and 11 m) as part of a revised Section 32 Report informed by a scientific review and the attributes to meet the proposed National Objectives Framework.

- 7.2 Table 11 i) and Table 11 j).

Table 11 i) sets the target and limits for nitrogen losses from farming activities, community sewerage systems and industrial or trade processes.

Table 11 j) sets the nitrogen and phosphorus limits for irrigation scheme (specifically Central Plains Water).

The allocation between the respective tables is based on methodology that gives preference to irrigation schemes and penalises existing users outside the CPW area by reducing nutrient targets. The allocation should be the same across the whole catchment to ensure equity for users.

Decisions sought:

Revise Tables 11 i) and 11 j) to provide an equal allocation across the catchment, reflecting a differing ratio (a 2:1 ratio) across 2 slope classes (>15degrees, less than 15 degrees).

Schedule Eight: 11.11 Schedules and Amendments to Section 16 Schedules

8.1 Schedule 7 Farm Environment Plan

The Variation seeks to amend Schedule 7 in the Proposed Land and Water Plan by applying additional matters to the Selwyn Waihora catchment. These include achieving the Good Management Practice Nitrogen and Phosphorus Loss Rates from 2017.

As stated elsewhere in this submission the GMPNPLR are not yet known and the effects have not been assessed. Therefore it is inappropriate to include these within Variation 1.

Further reductions are predicated on the reductions using GMPNPLR. Reductions post 2022 need to be reassessed when the impact of the GMPNPLR are known.

Decisions sought:

Delete Schedule 7 bullet point 2 'Achieve the Good Management Practice Nitrogen and Phosphorus Loss Rates from 2017.'

Delete Schedule 7 bullet point 3: Further reduce nitrogen loss rates from 2022 where a property's nitrogen loss calculation is greater than 15 kg of nitrogen per hectare per annum.

8.2 Schedule 10 Reasonable use Test

The Variation seeks to amend Schedule 10 in the Proposed Land and Water Plan by applying a lesser reliability factor in the Selwyn Waihora catchment. A reliability of 9 years out of ten is important to provide certainty for users. The s32 appears to base the reduction on a need to more closely align allocation with reasonable use and reduce over allocation. The report does not consider the impacts on users by reducing the reliability. In particular there needs to be consideration of the impacts on horticultural crops as the irrigation season may be different for horticultural crops and there should be flexibility to reflect variances.

Decision sought:

Amend Schedule 10 to better reflect horticultural seasonal irrigation demand. Where the use is a renewal of an existing consent the data from previous use should form a basis of the calculations.

Decision sought:

Delete changes sought to Schedule 10 or replace 'eight and a half years' with 'nine years'.

8.3 Schedule 24 Farm Practices

Policy 11.4.12 requires that farming activities implement the practices set out in Schedule 24, which sets out nutrient management, irrigation management, intensive winter grazing, cultivation and collected animal effluent practices.

Horticulture NZ generally supports the practices identified in the schedule but understands that the schedule is interim while the Matrix of Good Management Practices is being developed. Schedule 24 should be retained until a plan changes incorporates GMPNPLR into the Plan.

It is noted that the Schedule is not specific to Selwyn Waihora and that it includes with the other Schedules in the proposed Land and Water Plan. There should be clarity that the Schedule will only be applied in Selwyn Waihora where it is linked to the policy framework.

Decision sought:

Retain Schedule 24 and clarify that it relates specifically to Selwyn Waihora.