

Janel Hau

From: Jennifer Miller <J.Miller@forestandbird.org.nz>
Sent: Friday, 21 March 2014 4:40 p.m.
To: Mailroom Mailbox
Subject: Forest and Bird submission on Proposed Variation 1 Selwyn Te Waihora.doc
Attachments: Final Proposed Variation Selwyn Te Waihora.doc

Categories: Purple Category

Please find **attached** Forest and Bird's submission on the Proposed Variation 1 of the Proposed Canterbury Land and Water Plan.

Kind regards

Jen Miller Canterbury West Coast Field Officer

Royal Forest and Bird Protection Society of New Zealand

PO Box 2516, Christchurch

03 940 5523 **M** 021 651 778

www.forestandbird.org.nz

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

Prepared under the Resource Management Act 1991

To: Environment Canterbury
PO Box 345
Christchurch 8140

Name of Submitter: Royal Forest and Bird Protection Society of NZ ("Forest and Bird")

Address for service: Forest and Bird
P O Box 2516
Christchurch

Attention: Jennifer Miller

Phone: 03 940 5523
Mobile: 021 651 778
Email: j.miller@forestandbird.org.nz

This is a submission on the Proposed Variation 1 to the Proposed Canterbury Land and Water Regional Plan, 'the Plan'.

Forest and Bird's submission is structured as follows:

- The specific provisions of the submission relates to are set out below using the same system of identifying numbers as that contained in the plan;
- The wording of relief sought shows new text as underlined and original text to be deleted as ~~strikethrough~~

Background

The Royal Forest and Bird Protection Society ("Forest and Bird" has more than 70,000 members and supporters, with 55 branches nationwide. It has actively campaigned for the protection of New Zealand's indigenous flora and fauna for almost 90 years.

The constitutional purpose of Forest and Bird is:

“To take all reasonable steps within the power of the Society for the preservation and protection of the indigenous flora and fauna and natural features of New Zealand, for the benefit of the public including future generations”.

Forest and Bird has been involved in water management in Canterbury throughout the period of land intensification. In the past 2 decades we have witnessed a serious and rapid decline in water quality and quantity. This has been reflected in the decline of habitat for most species of indigenous, river-dependent birds and serious decline of the habitats of native fish.

The Specific provisions this submission relates to are:

Policies 11.4.1-11.4.2.5, 11.4.6-11, 11.4.12-15, 11.4.18-20, 11.4.21-29, 11.4.31

Rules 11.5.1-11.5.8, 11.5.9-13, 11.5.18-20, 11.5.32, 11.4.42, 11.5.44

Tables (c)-(k)

Schedule 24.

General Submission

Forest and Bird supports Council's effort to provide for the integrated management of the natural resources within the Selwyn-Te Waihora catchment but it has reservations around the extent to which the Plan gives proper effect to Part 11 RMA, the National Policy Statement Freshwater and the Canterbury Land and Water Plan and the Canterbury RPS.

In Forest and Bird's view the Plan does not properly address the degree of uncertainty that exists around what the lag effect may mean and in fact acknowledges the water quality is anticipated to 'get worse before it gets better'.

Added to this is the fact that the CPW irrigation scheme will see around 60.000ha being irrigated despite the catchment being already over allocated and a considerable number of existing consents will not expire for 15-20 years makes it difficult to achieve the integrated management that is desperately needed to address the declining water quality in the catchment.

There is an admission that this plan will not achieve sustainable management of the catchment, nor lead to any improvement within the current generation and in fact not until 2037. This seems extraordinary given the national and international importance of Te Waihora/Lake Ellesmere. This system is the most important wetland habitat of its type in New Zealand, providing essential habitats for a large range of bird, plant and invertebrate species. A 1990 National Water Conservation Order declared it as an outstanding wildlife habitat. In addition to this, as acknowledged in this Plan, for its immense importance to Ngai Tahu.

If 'avoidance' is considered too onerous because of the imperatives of economic and social well-being, then it is also imperative that the Plan is sufficiently reiterative to be able to make any necessary adjustments, including reviewing of consents at regular intervals, to ensure that sustainable management is achieved during the life of the Plan.

11.4 Policies

New Policy

For the reasons discussed above Forest and Bird considers it is important the Plan is sufficiently flexible and reiterative to make changes during its lifetime.

Relief sought

Add new Policy 11.4.1 and renumber accordingly

A new Policy that will provide for the progressive reviewing and monitoring of the Policies and Rules in the Plan by way of Plan Change if necessary similar to what is provided in Policy 5.4 of the Hurunui Waiau Regional River Plan (HWRRP) and add an accompanying rule similar to Rule 10.2 of the HWRRP.

Policy 11.4.1 – Support in part It is critical that the complex network of springs and tributaries flowing into the lake are managed as a whole to avoid adverse cumulative effects. As currently worded the policy will not give proper effect to the overall vision of the Te Waihora catchment which includes the restoration of *the* mauri of Te Waihora, Policy 11.4.4 *or* the purpose of the Act as it fails to consider the water quality of the springs and tributaries flowing into Te Waihora .

Relief sought

Amend 11.4.1 to read or words similar:

Manage water abstraction and discharges of contaminants within the entire Selwyn Waihora catchment to avoid cumulative effects on the water quality of Te Waihora/Lake Ellesmere and the flow and quality of water in springs and tributaries flowing into Te Waihora/Lake Ellesmere.

Policies 11.4.2-11.4.5 - are supported as they properly recognise the importance of managing values within the catchment in an integrated manner and the importance of protecting wahi taonga such as such as the nationally critical Canterbury mudfish and inanga spawning areas.

Relief sought

Retain Policies 11.4.2-11.4.5

New Policy 11.4.XX - There are no policies that properly recognise the importance of the catchment for its ecological, recreational and amenity values. Te Waihora is a wetland of international significance as well as having outstanding characteristics as described in the National Water Conservation (Te Waihora/Lake Ellesmere) Order 1990 which apart from its significance in accordance with tikanga Maori also *contributes to the following outstanding amenity or intrinsic values which warrant protection:*

1. *habitat for wildlife, indigenous wetland vegetation and fish*

The catchment provides significant habitat for the Canterbury mudfish a species endemic to Canterbury. The mudfish is highly vulnerable to habitat modification and water quality degradation and has a current threat status is nationally critical.

Our remnant indigenous vegetation and habitats of indigenous animals within Canterbury adapted to a dryland environment are at a critical level and continue to be lost as a result of increased irrigation. The small fragments of what remains must be protected.

The policy should give effect to the Act and objectives set out in the Canterbury Land and Water Plan (CLWP) and the Canterbury RPS.

Add new Policies 11.4.x and 11.4. xx to read or words similar:

Manage the water abstraction and discharges of contaminants and irrigation and other activities to ensure significant indigenous vegetation and significant habitats of indigenous fauna are protected and opportunities for enhancement are taken where possible.

Recognise the importance of the Selwyn-Te Waihora catchment for its recreational and amenity values and ensure the natural characters of its waterbodies are protected.

Polices -Managing Land Use to Improve Water Quality

11.4.6-11.4.11 Support in part.

These policies rely on targets and limits for nitrogen as set out in Table 11 (i) to improve water quality with the target to be met no later than 2037.

Forest and Bird considers that there needs to be an assurance that Council is able to monitor how these targets are tracking with provision for review during the life of the Plan with an ability to take appropriate action to ensure the target will be met by 2037. As it stands the community has no such assurance or indeed any real knowledge as to whether or not the targets will properly sustain the water bodies, meet the reasonably foreseeable needs of future generations and safe guards the life supporting capacity of water and ecosystems. The public is being asked in a sense to 'have faith' in targets that may or may not be able to be met particularly when the lag effect is at this point unknown.

Relief sought - Amend Polices 11.4.6-11.4.11 and add a sentence to end of each policy to read these limits will be reviewed within 5 years or words similar and amend Table 11 (i) accordingly.

11.4.12-11.4.15-Support in part

Forest and Bird's concerns are similar to those expressed above in relation to Policies 11.4.6-11.4.11. It is appreciated that the intent of the Policies are an effort to reduce the discharges of nitrogen and phosphorous along with sediment and microbial contaminants within the Catchment but again there seems to be no mechanisms to review and take appropriate action if it is the case reductions are not on track or the extent of the reductions as proposed are appropriate as new knowledge comes to hand. For example in relation to policy **11.4.15** it should not be the case that at 2022 it emerges that the reductions are unable to be achieved. Such non compliance should be signalled well before 2022.

Relief sought

Provide for a review of the achievement and efficacy of the proposed reduction targets and nitrogen baseline within five years or words to that effect.

11.4.12. (d) is supported as it recognises that drains are part of the water network and can contribute to degrading or improving water quality.

Relief sought-retain Policy 11.4.12 (d)

Policies 11.4.18-20 Lake, Catchment and Flow Restoration

These Policies are supported and vital if the mauri of the lake and the catchment generally is to be restored. There will be a significant cost to achieve these policies but it is unclear how these policies will be 'enabled'. It is the case there are a number of agencies both national and local, voluntary groups and business involved in restoration work in the lake.

Relief sought - Provide clarity around how these policies will be enabled and the role Council will have.

Polices - Sustainable Use of Water and Improved Flows

11.4.21-29 –Support in part

These policies are generally supported but seek that limits set out in Tables 11 (c) (d) (e) where referred to are able to be reviewed within 5 years as per Forest and Bird's submissions above to ensure they continue to be appropriate and action can be taken if it is shown not to be the case.

11.4.31 - Support in Part – the prohibition of damming on the Selwyn/Waikirikiri and Waianiwaniwa is supported. The whole Waianiwaniwa catchment is a significant habitat for the nationally critical Canterbury mudfish and in fact probably the only reasonably sustainable habitat that is available to this species therefore damming of the tributaries should also be prohibited. The policy as written does not give proper effect to Part 11 RMA.

Relief sought –Amend Policy 11.4.31 to read;

Prohibit in-stream damming of ~~the full flow on~~ the main stem of the Selwyn River/ Waikirikiri, and the Waianiwaniwa River and all tributaries above its confluence with the Selwyn River/ Waikirikiri.

Policy 11.4.32-Support

Retain Policy 11.4.32

Rules 11.5

Forest and Bird's support for the following rules are with the provision that there is an added Policy in the Plan to allow for the review of Targets and Limits as set out in various Tables within 5 years of life of the Plan as submitted in earlier sections of this submission. Without such a mechanism it is submitted that the rules will would be inconsistent with the Act and the First order priorities of the CWMS along with the Canterbury LWP and RPS.

11.5.1-11.5.8 Support

Relief sought - Retain Rules 11.5.1-11.5.6

11.5.9 11.5.13 –Support

Relief sought Retain Rules 11.5.9-11.5.13.

Stock exclusion

Rules 11.5.18-11.5.20 –Support

Relief sought –Retain Rules 11.5.18-20

Taking and Surface Water and Take and Use Groundwater

Rules 11.5.32 –Support

It is pleasing to see discretion will be exercised in relation to the effects of water use on significant indigenous vegetation and dryland habitats. The Canterbury Plains has little remnant indigenous vegetation remaining and it is of increasing concern to Forest and Bird that this loss is being exacerbated by irrigation development. This is due to the clearing of remnants for paddock development or loss due to exposure to water and nutrients as a result of the intensive development of adjoining land.

Retain Rule 11.5.32

Rule 11.5.42 - Support in Part – the prohibition of damming on the Selwyn/Waikirikiri and Waianiwanawa is supported. The whole Waianiwanawa catchment is a significant habitat for the nationally critical Canterbury mudfish and in fact probably the only reasonably sustainable habitat that is available to this species therefore damming of the tributaries should also be prohibited. The policy as written does not give proper effect to Part 11 RMA.

Relief sought –Amend Rule 11.5.42 to read;

Amend Rule 11.5.42 as follows:

The damming ~~of the full flow~~ of water within the bed of the main stem of the Selwyn River/Waikirikiri between the mouth at or about map reference BX23:5559-5636 to BW21:9667-9703 and BX21:9752-8937, and within the bed of the Waianiwanawa River above the confluence with the Selwyn River/ Waikirikiri and all tributaries, ~~at or about map reference BX22:2494-7347 to BW21:1130-9083~~ is a prohibited activity.

Rule 11.5.44 –Support -Forest and Bird supports efforts to restore habitat where possible. However the exercise of discretion includes the flowing matter at 7.

The benefit to the applicant is a peripheral matter and inconsistent with section 5 of the Act.

Relief sought-Amend Rule 11.5.44 *'The exercise of discretion is restricted to the following matters 7.* to read: The benefits of the activity to the ~~applicant~~, community and the environment.

Tables (c)-k

Despite Forest and Bird's qualified support for the policies that refer to these Tables it is the case that it is not in a position to adequately critique the veracity of the figures and the extent to which

they are likely to achieve the Vision of the Plan. It maybe the case that further investigation is necessary which could result in a change to some to ensure they meet the requirements of the Act, NPS Freshwater and the Canterbury Land and Water Plan.

Relief sought

Forest and Bird would like to reserve its position on the data contained within the Tables until it has had time to consider them in some detail and seek advice on the extent to which it can rely on them protecting the significant natural values within the Catchment.

5. Amendments to Section 16-Schedules

Schedule 24

(c) Intensive winter grazing:

(i) Support

Relief sought

Retain Schedule 24 (c)(i)

(d) Cultivation-support in part

It is unclear why the uncultivated strip would be only 2m and what data is being used to come up with this figure given 'Cultivation' as defined in the Plan is likely to include the application of fertiliser and possibly effluent.

Relief sought-

Amend Schedule 24 (d)(i) so there will be a minimum of a 5m uncultivated vegetative strip consistent with (c)(i) above.

Jennifer Miller

Royal Forest and Bird Protection Society of NZ

21 March 2014.