

Before the Independent Commissioners

In the Matter of the Resource Management Act 1991

And

In the Matter of the hearing of submissions and further submissions on
Proposed Variation 1 to the Proposed Canterbury Land
and Water Regional Plan

Evidence in Chief of **Timothy Alistair
Deans Ensor**
on behalf of Canterbury Aggregate
Producers Group
(Submitter ID 52289)

Dated: 29 August 2014

Introduction

1. My full name is Timothy Alistair Deans Ensor.
 2. I hold a Bachelor of Science and a Bachelor of Arts with honours majoring in Geography, obtained from the University of Canterbury in 2002. In 2012 I graduated with a Post Graduate Diploma in Planning from Massey University. I am an associate member of the New Zealand Planning Institute.
 3. I am currently an Associate Environmental Planner with URS New Zealand Limited (**URS**) and have been employed by the company for approximately seven years. Prior to starting with URS I was employed by Environment Canterbury for approximately two and a half years as a consents planner.
 4. I have worked throughout the South Island assisting private and public sector clients with obtaining statutory approvals, undertaking environmental impact assessment and policy analysis for projects where water quality and quantity issues are a major component. These clients include the NZ Transport Agency, Environment Canterbury, the Dunedin City Council and ANZCO Foods Limited.
 5. I have been asked by Canterbury Aggregate Producers Group (**CAPG**) to provide evidence in relation to the Canterbury Regional Council's Variation 1 to the proposed Land and Water Regional Plan (**pLWRP**).
 6. I have read the Code of Conduct for Expert Witnesses in the Environment Court Consolidated Practice Note 2006. I agree to comply with this Code of Conduct. This evidence is within my expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
 7. In preparing my evidence I have reviewed:
 - 7.1. the evidence of Mr Willis;
 - 7.2. the National Policy Statement Freshwater Management 2014 (**NPS Freshwater**);
 - 7.3. the Canterbury Regional Policy Statement (**RPS**);
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- 7.4. the proposed Canterbury Land and Water Regional Plan (**pLWRP**);
- 7.5. the s32 Report for Variation 1 (dated February 2014) (**s32 Report**);
and
- 7.6. the s42A Officers Report for Variation 1 (dated July 2014) (**Officers Report**).

Canterbury Aggregate Producer Group

8. Members of the CAPG are (in alphabetical order):

- 8.1. Blackstone Quarries;
- 8.2. Christchurch Readymix Concrete Limited;
- 8.3. Fulton Hogan Limited;
- 8.4. Isaac Construction Co Limited;
- 8.5. KB Contracting & Quarries Limited;
- 8.6. Road Metals Limited;
- 8.7. Selwyn Quarries Limited;
- 8.8. Taggart Earthmoving Limited; and
- 8.9. Winstone Aggregates Limited.

9. The CAPG collectively operates extensive transport fleets of trucks, trailers and other specialised aggregate production and construction equipment across the Canterbury region. The group also employs more than one thousand skilled staff to operate this machinery and plant.

10. The CAPG undertakes numerous activities involving land and water resources within the areas affected by Proposed Variation 1, namely the Christchurch West-Melton Zone and Selwyn-Waihora Zone. A number of these activities are concentrated within the West Melton Special Zone which is introduced in Variation 1.

11. The submitters have diverse interests within the Canterbury Region. By way of summary, members interests may include but are not limited to:

- 11.1. Gravel extraction, both within river beds and within land-based quarries/pits;
- 11.2. Aggregate processing and storage;
- 11.3. Construction, maintenance and use of structures, defences against water, and roads/access within river beds, riparian margins, and elsewhere;
- 11.4. Land use and infrastructure development and maintenance activities, either directly or on behalf of third parties (including roading contracts for the State highway on behalf of the New Zealand Transport Agency, and local roads on behalf of a number of territorial authorities);
- 11.5. Asphalt and bitumen manufacture and bulk storage;
- 11.6. Pre-cast concrete manufacture and storage;
- 11.7. Hazardous substance use, transport and storage;
- 11.8. Workshops, transport depots, storage yards, staff offices, and supporting infrastructure (including wastewater, stormwater, and potable water);
- 11.9. Water abstraction to support construction and operational activities (e.g. dust suppression, dewatering) and to provide potable water for staff facilities.
- 11.10. Discharges of water and contaminants to land and water, and the damming and diversion of water, associated with the above activities (where relevant).

Scope of evidence

- 12. I have been asked to present planning evidence on behalf of the CAPG. The CAPG's submission on Variation 1 sought to maintain concessions provided to the aggregates industry through the decisions version of the pLWRP, sought clarity around the rule framework for the Christchurch West Melton Zone, Selwyn Te Waihora Zone and the West Melton Special Zone, and sought
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changes to water abstraction policies and rules including transfers of water from site to site.

13. On this basis, this evidence focuses on issues to do with water quantity. In particular I address:

13.1. The introduction of the West Melton Special Zone (Introduction to Section 9.1, Rule 9.5.10 and 9.5.11 and Table 11(h));

13.2. Rules relating to small (Rule 9.5.10) and non-consumptive takes (Introductory text to Rule 11.5.32); and

13.3. Transfers of water from site to site (Policy 11.4.22 and Rule 11.5.37).

Water Quantity

Water transfers

14. The CAPG submitted that Policy 11.4.22 and Rule 11.5.37 as notified specifies a seemingly arbitrary percentage of water to be surrendered. The CAPG's submission also acknowledged the requirement under the NPS Freshwater to phase out over allocation but submitted that surrendering 50% of allocated water during transfers is a blunt mechanism for achieving this.

15. I largely agree with the sentiment of the CAPG's submission. Rather than the 50% of allocation being an arbitrary proportion for surrender, the s32 Report suggests that this figure was deliberately chosen so as to be large enough to deter transfers.¹ I will address this point further below.

16. In my view there are two main issues with the approach taken by Policy 11.4.22 and Rule 11.5.37 as notified. These are:

16.1. The application of Policy 11.4.22 and Rule 11.5.37 is indiscriminate. The requirement to surrender 50% of allocation applies regardless of the consented use of water or the risk the transfer poses to exacerbating further over allocation; and

16.2. Policy 11.4.22 and Rule 11.5.37 do not give effect to the NPS Freshwater.

¹ Proposed Variation 1 to the Land and Water Regional Plan - Section 32 Report pg 176

The indiscriminate application of Policy 11.4.22 and Rule 11.5.37

17. Individual land based sources of aggregate are finite and therefore quarries have varying 'lifetimes'. Smaller sites may be depleted within timescales shorter than the duration of resource consents held for water abstraction required to enable quarrying to take place. When a quarry reaches its 'end of life', new sites are found and equipment and personnel are moved to the new site. Consequently aggregate producers require a mechanism to transfer water from site to site so as to continue using this water for its consented purpose.
18. While Variation 1 does not prohibit transfers, the surrender of 50% of the consented volume on transfer is an unattractive option at the very least. As discussed in the s32 Report, the purpose of Policy 11.4.22 and Rule 11.5.37 is to avoid unused water being transferred to a new site where it may be abstracted furthering the potential effects associated with over allocation².
19. Historically, irrigation methods and consequently methods used to allocate water to irrigators have led to some consent holders being allocated more water than is required. This water then appears allocated on paper but a proportion of it may have never been abstracted. Therefore any effects associated with this abstraction may not be manifest in the environment.
20. In contrast, transferring water from a depleted quarry to be used at a new quarry site is less likely to significantly change the total volume of water being abstracted from a groundwater zone and therefore effects managed through groundwater limits (cumulative effects).³ The volume of water held by aggregate producers generally reflects the water requirements of a site. On this basis, transferring water to a new site will not result in additional water being abstracted from a zone. Therefore, cumulative effects associated with the abstraction of groundwater at one site will be similar to those at a new location.
21. Where this can differ is if water has originally been obtained for the needs of a large site which has become depleted, and the water permit has been transferred to a smaller site. In this scenario, the water not currently in use is not 'surplus' as described in the s32 report but is simply not currently used due to the level or scale of quarry activity being undertaken at the time. When the

² Proposed Variation 1 to the Land and Water Regional Plan - Section 32 Report pg 174

³ Cumulative effects are effects associated with the cumulative take of groundwater from a zone as opposed to individual effects such as direct interference between bores.

water is transferred to a new larger site or a series of smaller sites this water will be utilised once more.

22. Therefore, the requirement to surrender 50% of the volume by users such as the aggregate industry will not assist in avoiding further over allocation as required by the RPS⁴ as any effects associated with the take are likely to already exist, or give effect to the NPS Freshwater (discussed below). On this basis it is my view that the 50% surrender requirement is unjustified.
23. During the pLWRP process the CAPG and Fulton Hogan were successful in obtaining the inclusion of a transfer rule for water abstractions associated with the aggregate industry within Section 9 of the pLWRP.⁵ In relation to Variation 1, the CAPG submitted that this rule should also be inserted into Section 11.⁶
24. The Reporting Officer recognises the role of water transfers for the aggregate industry and recommends that a new rule 11.5.37A is inserted into Section 11⁷. This rule directly reflects Rule 9.5.8 in the Christchurch West Melton Zone and states:

11.5.37A The temporary or permanent site to site transfer, in whole or in part, of a water permit to take or use water for gravel extraction (and associated purposes) is a discretionary activity provided the water will be used for the same purpose.

25. In summary there is limited potential for changes in the total volume of water abstracted from a groundwater zone and therefore changes in cumulative effects associated with transfers by the aggregate industry. On this basis and given the significant role water plays in aggregate extraction, I am of the view that including this specific rule in Section 11 so as to provide for transfers by the aggregate industry in the Selwyn Te Waihora zone is appropriate.

Giving effect to the NPS Freshwater.

26. I am of the view that requiring 50% of allocated volume to be surrendered on transfer as required by Policy 11.4.22 and Rule 11.5.37 as notified will all but

⁴ Policy 7.3.4 (Water Quantity)

⁵ 245.84 Fulton Hogan Limited

⁶ V1pLWRP-638

⁷ Variation 1 to the Proposed Land and Water Regional Plan, Section 42A Report, Environment Canterbury July 2014, pg 323.

eliminate the motivation to transfer water. Consequently, these provisions will not give effect to Policy B3 or B6 of the NPS Freshwater.

27. Policy B3 requires Regional Councils to change plans to state criteria by which applications for water transfers are to be decided including “*to improve and maximise the efficient allocation of water*”⁸. By effectively eliminating the motivation to transfer water, Variation 1 does not provide an opportunity to improve and maximise the efficient allocation of water through transfers. In an over allocated catchment where new allocation is severely restricted, transfers are one of the only mechanisms for achieving this.
28. Policy B6 of the NPS Freshwater appears to be the main driver behind utilising transfers to phase out over allocation in the areas affected by Variation 1. As stated in the s32 report “*The surrender portion is high so as to act as a disincentive to the transfer of ‘surplus’ water, rather than provide a means of reducing over-allocation through claw-back*”.⁹
29. Based on this rationale it is my view that this method will not phase out over allocation as directed by Policy B6 but will only assist in avoiding further over allocation. On this basis Policy 11.4.22 and Rule 11.5.37 as notified will not give effect to the NPS Freshwater. In addition it is my view that as over allocation will not reduce under these transfer provisions, the effectiveness of the provisions in achieving Objective 3.9 and 3.10 of the pLWRP have been overstated in the s32 analysis.
30. Significant discussion was had at the hearings for the pLWRP around transfers and the requirement to surrender a fixed proportion of allocated water. Submissions by Ngai Tahu Property Limited and evidence at the hearing by Dr Brent Cowie provided an alternative to the transfer rule as notified in the pLWRP.¹⁰
31. In relation to Variation 1, the CAPG submitted that this alternative provides a practical solution that will allow transfers in the area affected by Variation 1 to occur while giving effect to the NPS Freshwater¹¹. I agree with this submission point. Consequently it is my view that Policy 11.4.22 and Rule 11.5.37 should be amended to reflect Rule 5.133 of the decisions version of the pLWRP.

⁸ National Policy Statement for Freshwater Management 2014, Policy B3, pg 11

⁹ Proposed Variation 1 to the Land and Water Regional Plan - Section 32 Report pg 176

¹⁰ 209.30 NTPL

¹¹ V1pLWRP-637

32. By providing for transfers to occur as submitted by the CAPG, an assessment can be made as to the reasonableness of the water allocated to the existing activity, allocation efficiency gains can be made as required by Policy B3 of the NPS Freshwater, transfers can contribute to phasing out over allocation if appropriate as directed by Policy B6 of the NPS Freshwater and the positive effects associated with water transfers can be assessed.
33. If, once the Central Plains Water irrigation scheme comes on-line insufficient progress is made to meeting NPS Freshwater objectives, RPS objectives¹² and the objectives of the pLWRP¹³, other options such as initiating a review of existing water permits under s128 RMA could be undertaken to address situations where consent holders have a true surplus of water. I am of the view that consent reviews provide the best opportunity to substantially claw back over allocation.

Prohibited Activity Status in the Selwyn Te Waihora Zone

34. Rule 11.5.36 prescribes prohibited activity status for any take of water not meeting certain conditions of Rule 11.5.32, or not complying with Rules 11.5.33 or 11.5.34. The CAPG submitted that prohibited activity status is unduly onerous and precludes activities which may have minor adverse effects and significant social and economic benefits.¹⁴ I especially agree with the second point.
35. I understand the Court of Appeal in *Coromandel Watchdog of Hauraki Inc v Ministry of Economic Development*¹⁵ sets the test for imposing a prohibited activity status. This test is whether or not the allocation of that status is the most appropriate of the options available. This, in my view reinforces the requirements of Section 32(3)(b) of the RMA which specifies that an evaluation must examine whether the rules are the most appropriate for achieving a plans objectives.
36. In my view the Section 32 evaluation undertaken by the Council does not appear to fully consider the social and economic benefits and costs of prohibition on activities such as those undertaken by members of the CAPG. This is evident in the 'efficiency evaluation' which only identifies social costs in

¹² Objective 7.2.1 and 7.2.2

¹³ Objective 3.9, 3.10 3.11, and 3.12

¹⁴ V1pLWRP-641

¹⁵ *Coromandel Watchdog of Hauraki Inc v Ministry of Economic Development* [2008] 1 NZLR 562

relation to people who will not be able to abstract water for irrigation or economic costs for those who are not Central Plains Water scheme members and therefore will not have access to water.¹⁶

37. It is my view that without a full and complete assessment of all costs and benefits it cannot be concluded that imposing a blanket prohibited activity status on all allocation over set allocation limits is the most appropriate of the options available or the most appropriate method of achieving the objectives of the pLWRP.

38. In the absence of a full evaluation of all costs and benefits of the prohibition to not just the aggregate industry but all non-irrigation water users, I am of the view that applications for new water in the Selwyn Te Waihora zone should be classified as a non-complying activity allowing the activity to be assessed on its merits as suggested in the CAPG submission:

11.5.36 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~~ non-complying activity.

West Melton Special Zone

39. Variation 1 introduces the West Melton Special Zone, which straddles both the Christchurch West Melton Zone and Selwyn Te Waihora Zone. The CAPG are generally in support of the formalisation of the water level triggers in the West Melton Special Zone but submitted that the aggregate industry should be exempt from the restrictions.¹⁷

40. The submission also seeks clarity on a number of interpretation matters across the Christchurch West Melton Zone, Selwyn Te Waihora Zone and the West Melton Special Zone.¹⁸ It is my view that interpretation of the provisions that affect water abstraction in these zones is a little cumbersome but that this is not a significant issue that warrants substantive changes. My only suggestion would be to consider reproducing the water allocation rules affected by

¹⁶ Proposed Variation 1 to the Proposed Canterbury Land and Water Regional Plan - Section 32 Evaluation Report pg 158

¹⁷ V1pLWRP-627

¹⁸ V1pLWRP-612

Variation 1 in full in the appropriate sub regional chapters to limit the cross referencing required between Sections 5, 9 and 11.

41. The aggregate industry uses water for a number of activities associated with their activities including for dust suppression. A reliable water source is required so as to comply with consent conditions relating to mitigating nuisance dust on most consents for land based quarrying and the associated processing of material. If a water permit held for dust suppression purposes is subject to restrictions on the volume of water that can be abstracted, there is the possibility that this could lead to potential nuisance dust effects and non-compliance with the conditions of an air discharge or land use consent.
42. On this basis, I am in partial agreement with the submission made by the CAPG requesting exemption from compliance with the water level restrictions in Table 11(h).¹⁹ Where compliance with the conditions of a land use or discharge consent relies on a water permit it is in my view inappropriate to restrict the water permit due to the risk of other environmental effects occurring. This could be the case with dust suppression within quarries. Often large areas of the quarry are exposed or covered by stockpiles of material which are a potential source of dust. While extraction and processing activities can be scaled back to respond to water restrictions, potential dust sources are likely to remain.
43. While an exemption from compliance with water level restrictions for critical activities is in my view justified, simply creating an exemption for the aggregate industry is not necessarily required. The rules relating to water abstraction in the pLWRP as modified by Variation 1 provide an option for abstractors that are unable to comply with the water level regime to be subject to a non-complying activity status. This allows applications to be assessed on their merits addressing all relevant effects. Specifically this includes assessing well interference effects through Schedule 12 of the pLWRP which is the effect most attributable to non-compliance with water level triggers.
44. Provided the rules and associated activity status are adopted as notified through Variation 1, it is my view that the risks to activities that require exemption from the water level restriction regime are low. This approach also does not require individual activities to be singled out for exemption ensuring that other activities relying on water during times of restriction are covered.

¹⁹ V1pLWRP-627

45. Consequently it is my view that provided the notified rule framework including the associated activity status is retained so as to provide an opportunity for individuals that cannot comply with water level restrictions to apply for resource consent based on the merits of the activity; an exemption for aggregate producers is not specifically required.

Small Takes

46. The CAPG submitted that small takes (10-100m³/day at a rate not exceeding 5 litres per second) in the Christchurch West Melton Zone that are also in the West Melton Special Zone should continue as a permitted activity²⁰.

47. I am of the view that provision for small takes as a permitted activity within the West Melton Special Zone has potential to put unnecessary pressure on existing abstractors in the zone and will make achieving the objectives of the NPS Freshwater²¹ and RPS²² more difficult. Domestic and stockwater takes less than 10m³/day remain permitted, and under the notified Rule 9.5.10 an opportunity exists for small takes for other uses to apply for consent through Rule 5.128 to 5.130 of the pLWRP. This ensures that consents for small takes essentially become just like any other take and will be subject to the water level restrictions in Table 11(h) (as a restricted discretionary activity) or will be assessed on their merits as a non-complying activity. On this basis it is my view that Rule 9.5.10 as notified is appropriate.

Non-consumptive takes

48. The pLWRP provides for non-consumptive takes of water through Rules 5.126, 5.127, 5.131 and 5.132. Through their submission the CAPG requested that Variation 1 does not affect how the rules of the pLWRP relate to the aggregate industry.²³ This submission point specifically relates to ensuring Rules 5.131 and 5.132 that enable non-consumptive takes from groundwater continue to apply within the Christchurch West Melton Zone and Selwyn Te Waihora Zone.

49. Rules relating to non-consumptive water abstractions have clearly defined effects that can be easily managed through a set of rules common to the region. On this basis it is my view that Rules 5.131 and 5.132 should apply

²⁰ V1pLWRP-622

²¹ For example Objective B2

²² For example Objective 7.2.1

²³ V1pLWRP-612

within the Christchurch West Melton Zone and Selwyn Te Waihora Zone as they do in other parts of the region.

50. The introductory statement to the “*Taking and Use Surface Water and Take and Use Groundwater*” section in Section 11 of Variation 1 provides clarification that Rules 5.126, 5.127, 5.131 and 5.132 apply within the Selwyn Te Waihora Zone.²⁴ I am of the view that this introductory statement provides adequate clarity as to the application of these rules and is therefore supported.

Conclusion

51. While the pLWRP through Variation 1 continues to make improvements to the NRRP and provides support for some of the CAPG’s activities, there are still areas of concern.

52. The most significant issue is the requirement to surrender 50% of water allocated on transfer. In my view this is a flawed mechanism that is indiscriminate in its application, does not give effect to the NPS Freshwater and is not an efficient mechanism of achieving the objectives of the RPS.

53. In my view, the suggested amendments to Variation 1 outlined in my evidence and attached as **Annexure A**, will address these issues ensuring a balance is achieved between enabling the economic and social benefits to be gained from water while phasing out over allocation.

Tim Ensor

29 August 2014

²⁴ Proposed Variation 1 to the Proposed Land and Water Regional Plan, pg 4-16

Annexure A:

Provisions incorporating changes resulting from review of the s42A report and through the development of expert evidence

<i>The provisions of the Proposed Variation that the CAPG's submission relates to are:</i>	<i>The provisions of the Proposed Variation as notified:</i>	<i>Decisions sought by the CAPG through submissions:</i>	<i>Provisions incorporating changes resulting from review of the s42A report and through the development of expert evidence:</i>								
Introductory text in Section 9.1	Introductory text in Section 9.1	Retain introductory text, subject to the provision of the relief sought under submission point (1) and other related submission points, namely that groundwater takes for 'other activities' in that part of the WMSZ within the CWMZ are allowed for as a restricted discretionary activity.	Retain introductory text as notified provided the rule framework, including activity status for abstractions in the West Melton Special Zone remains as notified.								
Definition of West Melton Special Zone in 9.1A	<table border="1" data-bbox="403 569 1139 720"> <thead> <tr> <th data-bbox="403 569 596 600">Word</th> <th data-bbox="596 569 1139 600">Definition</th> </tr> </thead> <tbody> <tr> <td data-bbox="403 600 596 720">West Melton Special Zone</td> <td data-bbox="596 600 1139 720">means the area bounded by Intake Road, Station Road, Hoskyns Road through to Main South Road, Carmen Road, Russley Road, Ryans Road, Guys Road and a line 1,000 metres north of, and parallel to, the Old West Coast Road as shown on the Planning Maps.</td> </tr> </tbody> </table>	Word	Definition	West Melton Special Zone	means the area bounded by Intake Road, Station Road, Hoskyns Road through to Main South Road, Carmen Road, Russley Road, Ryans Road, Guys Road and a line 1,000 metres north of, and parallel to, the Old West Coast Road as shown on the Planning Maps.	Retain the Christchurch-West Melton Section Definition, subject to the provision of the relief sought under submission point (1) and other related submission points, namely that groundwater takes for 'other activities' in that part of the WMSZ within the CWMZ are allowed for as a restricted discretionary activity.	<table border="1" data-bbox="1887 569 2674 720"> <thead> <tr> <th data-bbox="1887 569 2080 600">Word</th> <th data-bbox="2080 569 2674 600">Definition</th> </tr> </thead> <tbody> <tr> <td data-bbox="1887 600 2080 720">West Melton Special Zone</td> <td data-bbox="2080 600 2674 720">means the area bounded by Intake Road, Station Road, Hoskyns Road through to Main South Road, Carmen Road, Russley Road, Ryans Road, Guys Road and a line 1,000 metres north of, and parallel to, the Old West Coast Road as shown on the Planning Maps.</td> </tr> </tbody> </table>	Word	Definition	West Melton Special Zone	means the area bounded by Intake Road, Station Road, Hoskyns Road through to Main South Road, Carmen Road, Russley Road, Ryans Road, Guys Road and a line 1,000 metres north of, and parallel to, the Old West Coast Road as shown on the Planning Maps.
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Policy 9.4.8	<p><i>Policy 9.4.8</i></p> <p><i>Protect the reliability of groundwater takes for domestic and stock water use and community water supply in the West Melton Special Zone, by requiring groundwater abstractions greater than 10 m³ per day to comply with the groundwater level restrictions in section 9.6.2.</i></p>	Retain Policy 9.4.8, subject to the provision of the relief sought under submission point (1) and other related submission points, namely that groundwater takes for 'other activities' in that part of the WMSZ within the CWMZ are allowed for as a restricted discretionary activity.	<p>Retain Policy 9.4.8 as notified provided the rule framework, including activity status for abstractions in the West Melton Special Zone remains as notified.</p> <p><i>Policy 9.4.8</i> <i>Protect the reliability of groundwater takes for domestic and stock water use and community water supply in the West Melton Special Zone, by requiring groundwater abstractions greater than 10 m³ per day to comply with the groundwater level restrictions in section 9.6.2.</i></p>								
Rule 9.5.10	<p><i>Rule 9.5.10:</i></p> <p><i>9.5.10 Within Christchurch West Melton, Regional Rule 5.114 shall include the following additional condition:</i></p> <p><i>1. The take is not within the West Melton Special Zone.</i></p>	<p>Delete Rule 9.5.10:</p> <p>9.5.10 Within Christchurch West Melton, Regional Rule 5.114 shall include the following additional condition:</p> <p>1. The take is not within the West Melton Special Zone.</p>	<p><i>Rule 9.5.10:</i></p> <p><i>9.5.10 Within Christchurch West Melton, Regional Rule 5.114 shall include the following additional condition:</i></p> <p><i>1. The take is not within the West Melton Special Zone.</i></p>								
Rule 9.5.11	<p><i>Rule 9.5.11</i></p> <p><i>Within Christchurch West Melton, Regional Rule 5.128 shall include the following additional condition:</i></p> <p><i>1. Any take within the West Melton Special Zone complies with the groundwater level restrictions in section 9.6.2.</i></p>	Retain Rule 9.5.11, subject to any amendments required to ensure that any non-compliance with the condition is treated as a non-complying activity.	<p>Retain Rule 9.5.11 as notified provided the rule framework, including activity status for abstractions in the West Melton Special Zone remains as notified.</p> <p><i>Rule 9.5.11</i></p> <p><i>Within Christchurch West Melton, Regional Rule 5.128 shall include the following additional condition:</i></p> <p><i>1. Any take within the West Melton Special Zone complies with the groundwater level restrictions in section 9.6.2.</i></p>								
Table 9.6.2	Table 9.6.2	Retain Table 9.6.2 and footnotes, subject to exempting the aggregates industry from the groundwater level restrictions.	Retain Table 9.6.2 and footnotes as notified provided the rule framework, including activity status for abstractions in the West Melton Special Zone remains as notified.								

The provisions of the Proposed Variation that the CAPG's submission relates to are:	The provisions of the Proposed Variation as notified:	Decisions sought by the CAPG through submissions:	Provisions incorporating changes resulting from review of the s42A report and through the development of expert evidence:
Policy 11.4.22	<p><i>Policy 11.4.22</i></p> <p><i>Restrict the transfer of water permits within the Rakaia-Selwyn and Selwyn-Waimakariri water allocation zones to minimise the cumulative effects on flows in hill-fed lowland and spring-fed plains rivers from the use of allocated but unused water, by requiring that:</i></p> <p><i>(a) Irrigation scheme shareholders within the Irrigation Scheme Area shown on the Planning Maps do not transfer their permits to take and use groundwater; and</i></p> <p><i>(b) No permit to take and use groundwater is transferred from down-plains to up-plains; and.</i></p> <p><i>(c) In all other cases 50% of any transferred water is surrendered.</i></p>	<p>Delete Condition (c) in Policy 11.4.22:</p> <p>11.4.22 [...]</p> <p>(c) In all other cases 50% of any transferred water is surrendered.</p>	<p><i>Policy 11.4.22</i></p> <p><i>Restrict the transfer of water permits within the Rakaia-Selwyn and Selwyn-Waimakariri water allocation zones to minimise the cumulative effects on flows in hill-fed lowland and spring-fed plains rivers from the use of allocated but unused water, by requiring that:</i></p> <p><i>(a) Irrigation scheme shareholders within the Irrigation Scheme Area shown on the Planning Maps do not transfer their permits to take and use groundwater; and</i></p> <p><i>(b) No permit to take and use groundwater is transferred from down-plains to up-plains; and.</i></p> <p><i>(c) In all other cases 50% of any transferred water is surrendered.</i></p>
Policy 11.4.33	<p><i>Policy 11.4.33</i></p> <p><i>Protect the reliability of groundwater takes for domestic and stock water use and community water supply in the West Melton Special Zone by requiring groundwater abstractions greater than 10 m³ per day to comply with the groundwater level restrictions in Table 11(h).</i></p>	<p>Retain Policy 11.4.33, subject to the provision of the relief sought under submission point (1) and other related submission points, namely that groundwater takes for 'other activities' in that part of the WMSZ within the CWMZ are allowed for as a restricted discretionary activity.</p>	<p><i>Policy 11.4.33</i></p> <p><i>Protect the reliability of groundwater takes for domestic and stock water use and community water supply in the West Melton Special Zone by requiring groundwater abstractions greater than 10 m³ per day to comply with the groundwater level restrictions in Table 11(h).</i></p>
Rule 11.5.31	<p><i>Rule 11.5.31</i></p> <p><i>Within the Selwyn Waihora catchment Regional Rule 5.114 shall include the following additional condition:</i></p> <p><i>1. The take is not within the West Melton Special Zone.</i></p>	<p>Retain Rule 11.5.31, subject to the provision of the relief sought under submission point (1) and other related submission points, namely that groundwater takes for 'other activities' in that part of the WMSZ within the CWMZ are allowed for as a restricted discretionary activity.</p>	<p>Retain Rule 11.5.31 as notified provided the rule framework, including activity status for abstractions in the West Melton Special Zone remains as notified.</p> <p><i>Rule 11.5.31</i></p> <p><i>Within the Selwyn Waihora catchment Regional Rule 5.114 shall include the following additional condition:</i></p> <p><i>1. The take is not within the West Melton Special Zone.</i></p>
Rule 11.5.32	<p><i>Rule 11.5.32</i></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 is a restricted discretionary activity, provided the following conditions are met:</i></p> <p><i>1. The take in addition to all existing resource consented takes, does not result in any exceedance of any of the allocation limits in Table 11(e), 11(f) and 11(g); or</i></p> <p><i>2. The proposed take is the replacement of a lawfully established surface water or groundwater take for which an application to continue the activity has been made under s124 of the RMA and there is no increase in the proposed rate of take or annual volume; and</i></p> <p><i>3. A surface water or a groundwater take with a direct or high degree of stream depletion effect greater than 5 L/s determined in accordance with Schedule 9, complies with the minimum flow and restriction regime in Tables 11(c) and 11(d); and</i></p> <p><i>4. A groundwater take within the West Melton Special Zone as shown on the Planning Maps complies with the level restrictions in Table 11(h); and</i></p> <p><i>5. Unless it is associated with the artificial opening of a hāpua, lagoon or coastal lake to the sea, the take is not from a wetland or hāpua; and</i></p> <p><i>6. For the renewal of an existing irrigation take the annual volume and maximum rate of take has been calculated in accordance with method 1 in Schedule 10; and</i></p> <p><i>7. The take is not a surface water or groundwater take with a direct or high degree of stream depletion effect greater than 5 L/s, determined in accordance with Schedule 9, within the Waikewai Creek and Taumutu Creek catchments; and</i></p> <p><i>8. The bore interference effects are acceptable, as determined in accordance with Schedule 12.</i></p>	<p>Retain Rule 11.5.32, subject to:</p> <ul style="list-style-type: none"> Condition 2 being amended as follows: "<u>Except in the West Melton Special Zone,</u> the take in addition to all existing resource consented takes, does not result in any exceedance of any of the allocation limits in Table 11(e), 11(f) and 11(g). 	<p>Retain Rule 11.5.32 as notified provided the rule framework, including activity status for abstractions in the West Melton Special Zone remains as notified.</p> <p><i>Rule 11.5.32</i></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 is a restricted discretionary activity, provided the following conditions are met:</i></p> <p><i>1. The take in addition to all existing resource consented takes, does not result in any exceedance of any of the allocation limits in Table 11(e), 11(f) and 11(g); or</i></p> <p><i>2. The proposed take is the replacement of a lawfully established surface water or groundwater take for which an application to continue the activity has been made under s124 of the RMA and there is no increase in the proposed rate of take or annual volume; and</i></p> <p><i>3. A surface water or a groundwater take with a direct or high degree of stream depletion effect greater than 5 L/s determined in accordance with Schedule 9, complies with the minimum flow and restriction regime in Tables 11(c) and 11(d); and</i></p> <p><i>4. A groundwater take within the West Melton Special Zone as shown on the Planning Maps complies with the level restrictions in Table 11(h); and</i></p> <p><i>5. Unless it is associated with the artificial opening of a hāpua, lagoon or coastal lake to the sea, the take is not from a wetland or hāpua; and</i></p> <p><i>6. For the renewal of an existing irrigation take the annual volume and maximum rate of take has been calculated in accordance with method 1 in Schedule 10; and</i></p> <p><i>7. The take is not a surface water or groundwater take with a direct or high degree of stream depletion effect greater than 5 L/s, determined in accordance with Schedule 9, within the Waikewai Creek and Taumutu Creek catchments; and</i></p> <p><i>8. The bore interference effects are acceptable, as determined in accordance with Schedule 12.</i></p>

The provisions of the Proposed Variation that the CAPG's submission relates to are:	The provisions of the Proposed Variation as notified:	Decisions sought by the CAPG through submissions:	Provisions incorporating changes resulting from review of the s42A report and through the development of expert evidence:
Rule 11.5.36	<p>Rule 11.5.36</p> <p>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.</p>	<p>Amend Rule 11.5.36:</p> <p>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 <u>non-complying</u> activity.</p>	<p>Rule 11.5.36:</p> <p>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 <u>non-complying</u> activity.</p>
Rule 11.5.37 Condition 4	<p>Rule 11.5.37</p> <p>The temporary or permanent transfer, in whole or in part, (other than to the new owner of the site to which the take and use of water relates and where the location of the take and use of water does not change) of a water permit to take or use surface water or groundwater within the Selwyn Waihora catchment, is a restricted discretionary activity, provided the following conditions are met:</p> <ol style="list-style-type: none"> 1. The reliability of supply for any other lawfully established water take is not reduced; and 2. In the case of surface water, the point of take remains within the same surface water catchment and the take complies with the minimum flow and restriction regime in Tables 11(c) and 11(d); or 3. In the case of groundwater: <ol style="list-style-type: none"> (a) the point of take is within the same groundwater allocation zone or combined surface and groundwater allocation zone; and (b) the bore interference effects as set out in Schedule 12 are acceptable; and (c) the transfer is not from down-plains to up-plains; and (d) the transfer is not from a person who holds shares in an Irrigation Scheme in the Irrigation Scheme Area as shown on the Planning Maps; and (e) In addition for stream depleting groundwater takes: <ol style="list-style-type: none"> (i) the transfer is within the same surface water catchment; and (ii) the take complies with the minimum flow and restriction regime in Table 11(c) and 11(d); and (iii) the stream depletion effect is no greater in the transferred location than in the original location; and <p>4 If the transfer is within the Rakaia-Selwyn or Selwyn-Waimakariri Combined Surface and Groundwater Allocation Zones 50% of the volume of transferred water is to be surrendered.</p> <p>The exercise of discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> 1. The nature of the transfer, whether short term, long term, partial or full, and the apportioning of the maximum rate of take and annual volume in the case of a partial transfer; and 2. The appropriateness of conditions, including conditions on minimum flow, annual volume and other restrictions to mitigate effects; and 3. The reasonable need for the quantities of water sought, the intended use of the water and the ability of the applicant to abstract and use those quantities; and 4. The efficiency of the exercise of the resource consent; and 5. The reduction in the rate of take in times of low flow; and 6. The method of preventing fish from entering any water intake. 	<p>Delete Condition 4 of 11.5.37:</p> <p>4. If the transfer is within the Rakaia-Selwyn or Selwyn-Waimakariri Combined Surface and Groundwater Allocation Zones 50% of the volume of transferred water is to be surrendered.</p> <p>and provide for surrender as a matter of discretion.</p>	<p>Rule 11.5.37</p> <p>The temporary or permanent transfer, in whole or in part, (other than to the new owner of the site to which the take and use of water relates and where the location of the take and use of water does not change) of a water permit to take or use surface water or groundwater within the Selwyn Waihora catchment, is a restricted discretionary activity, provided the following conditions are met:</p> <ol style="list-style-type: none"> 1. The reliability of supply for any other lawfully established water take is not reduced; and 2. In the case of surface water, the point of take remains within the same surface water catchment and the take complies with the minimum flow and restriction regime in Tables 11(c) and 11(d); or 3. In the case of groundwater: <ol style="list-style-type: none"> (a) the point of take is within the same groundwater allocation zone or combined surface and groundwater allocation zone; and (b) the bore interference effects as set out in Schedule 12 are acceptable; and (c) the transfer is not from down-plains to up-plains; and (d) the transfer is not from a person who holds shares in an Irrigation Scheme in the Irrigation Scheme Area as shown on the Planning Maps; and (e) In addition for stream depleting groundwater takes: <ol style="list-style-type: none"> (i) the transfer is within the same surface water catchment; and (ii) the take complies with the minimum flow and restriction regime in Table 11(c) and 11(d); and (iii) the stream depletion effect is no greater in the transferred location than in the original location; and <p>4 If the transfer is within the Rakaia-Selwyn or Selwyn-Waimakariri Combined Surface and Groundwater Allocation Zones 50% of the volume of transferred water is to be surrendered.</p> <p>The exercise of discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> 1. The nature of the transfer, whether short term, long term, partial or full, and the apportioning of the maximum rate of take and annual volume in the case of a partial transfer; and 2. The appropriateness of conditions, including conditions on minimum flow, annual volume and other restrictions to mitigate effects; and 3. The reasonable need for the quantities of water sought, the intended use of the water and the ability of the applicant to abstract and use those quantities; and 4. The efficiency of the exercise of the resource consent; and 5. The reduction in the rate of take in times of low flow; and 6. The method of preventing fish from entering any water intake; and 7. Where the surface water and/or groundwater allocation limits set in Section 11 are exceeded, any reduction in the rate or volume of take that may be required to assist with the <u>phasing out of that exceedance</u>.

<i>The provisions of the Proposed Variation that the CAPG's submission relates to are:</i>	<i>The provisions of the Proposed Variation as notified:</i>	<i>Decisions sought by the CAPG through submissions:</i>	<i>Provisions incorporating changes resulting from review of the s42A report and through the development of expert evidence:</i>
None	None	Add the following new rule 11.5.37A: <u>The temporary or permanent site to site transfer, in whole or in part, of a water permit to take or use water for gravel extraction (and associated purposes) is a discretionary activity provided the water is used for the same purpose.</u>	<u>Rule 11.5.37A:</u> <u>The temporary or permanent site to site transfer, in whole or in part, of a water permit to take or use water for gravel extraction (and associated purposes) is a discretionary activity provided the water is used for the same purpose.</u>
Table 11(h)	Table 11(h)	Retain Table 11(h) and footnotes, subject to exempting the aggregates industry from the groundwater level restrictions.	Retain Table 11(h) and footnotes as notified provided the rule framework, including activity status for abstractions in the West Melton Special Zone remains as notified.

ANNEXURE B- OBJECTIVES AND POLICIES REFERRED TO IN EVIDENCE

National Policy Statement for Freshwater Management 2014

Objective B2

To avoid any further over-allocation of fresh water and phase out existing over-allocation.

Policy B3

By every regional council making or changing regional plans to the extent needed to ensure the plans state criteria by which applications for approval of transfers of water take permits are to be decided, including to improve and maximise the efficient allocation of water.

Policy B6

By every regional council setting a defined timeframe and methods in regional plans by which over-allocation must be phased out, including by reviewing water permits and consents to help ensure the total amount of water allocated in the freshwater management unit is reduced to the level set to give effect to Policy B1.

Canterbury Regional Policy Statement 2013

Objective 7.2.1 – Sustainable management of fresh water

The region's fresh water resources are sustainably managed to enable people and communities to provide for their economic and social wellbeing through abstracting and/or using water for irrigation, hydro-electricity generation and other economic activities, and for recreational and amenity values, and any economic and social activities associated with those values, providing:

- (1) the life-supporting capacity ecosystem processes, and indigenous species and their associated freshwater ecosystems and mauri of the fresh water is safe-guarded; and
- (2) the natural character values of wetlands, lakes and rivers and their margins are preserved and these areas are protected from inappropriate subdivision, use and development and where appropriate restored or enhanced; and
- (3) any actual or reasonably foreseeable requirements for community and stockwater supplies and customary uses, are provided for.

Objective 7.2.2- Parallel processes for managing fresh water

Abstraction of water and the development of water infrastructure in the region occurs in parallel with:

- (1) improvements in the efficiency with which water is allocated for abstraction, the way it is abstracted and conveyed, and its application or use;
- (2) the maintenance of water quality where it is of a high standard and the improvement of water quality in catchments where it is degraded; and
- (3) the restoration or enhancement of degraded fresh water bodies and their surroundings

Objective 7.2.4 - Integrated management of fresh water resources

Fresh water is sustainably managed in an integrated way within and across catchments, between activities, and between agencies and people with interests in water management in the community, considering:

- (1) the Ngāi Tahu ethic of Ki Uta Ki Tai (from the mountains to the sea);
- (2) the interconnectivity of surface water and groundwater;
- (3) the effects of land uses and intensification of land uses on demand for water and on water quality; and
- (4) kaitiakitanga and the ethic of stewardship; and
- (5) any net benefits of using water, and water infrastructure, and the significance of those benefits to the Canterbury region.

Policy 7.3.4 – Water quantity

In relation to the management of water quantity:

- (1) to manage the abstraction of surface water and groundwater by establishing environmental flow regimes and water allocation regimes which:
 - (a) manage the hydrological connections of surface water, groundwater and the coastal environment;
 - (b) avoid long-term decline in groundwater levels and saltwater intrusion of coastal groundwater resources;
 - (c) protect the flows, freshes and flow variability required to safeguard the life-supporting capacity, mauri, ecosystem processes and indigenous species including their associated ecosystems and protect the natural character values of fresh water bodies in the catchment, including any flows required to transport sediment, to open the river mouth, or to flush coastal lagoons;
 - (d) provide for any existing or reasonably foreseeable needs of surface water or groundwater for individual, marae or community drinking water or stockwater supplies;
 - (e) support the exercise of customary uses, including any flows required to maintain wetlands or water quality for customary uses; and
 - (f) support any flow requirements needed to maintain water quality in the catchment; and, having satisfied the requirements in (a) to (f), provide for:
 - (g) recreational values (including the patterns and timing of flow variability desired by recreational users) and amenity values; and
 - (h) any actual or reasonably foreseeable demand for abstraction (for uses other than those listed in (d) above), unless Policy 7.3.4(2) applies; and
- (2) Where the quantum of water allocated for abstraction from a water body is at or exceeds the maximum amount provided for in an environmental flow and water allocation regime:
 - (a) avoid any additional allocation of water for abstraction or any other action which would result in further over-allocation; and
 - (b) set a timeframe for identifying and undertaking actions to effectively phase out over-allocation; and
 - (c) effectively addresses any adverse effects of overallocation in the interim.

Proposed Canterbury Land and Water Regional Plan (decisions version)

Objective 3.9

Abstracted water is shown to be necessary and reasonable for its intended use and any water that is abstracted is used efficiently.

Objective 3.10

Water is available for sustainable abstraction or use to support social and economic activities and social and economic benefits are maximised by the efficient storage, distribution and use of the water made available within the allocation limits or management regimes which are set in this Plan.

Objective 3.11

Water is recognised as an enabler of the economic and social wellbeing of the region.

Objective 3.12

When setting and managing within limited, regard is had to community outcomes for water quality and quantity.