
in the matter of: the Resource Management Act 1991

and: submissions and further submissions in relation to
proposed Variation 1 to the proposed Canterbury Land
and Water Regional Plan

and: **Central Plains Water Limited**
Submitter

Rebuttal evidence of Hamish John Peacock (planning)

Dated: 8 September 2014

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REBUTTAL EVIDENCE OF HAMISH JOHN PEACOCK

INTRODUCTION

- 1 My name is Hamish John Peacock.
- 2 My qualifications and experience are set out in my evidence in chief (EIC) dated 29 August 2014.

SCOPE OF EVIDENCE

- 3 In this evidence I comment on:
 - 3.1 the extent to which Variation 1 might be too permissive for land users. This concern has been raised by a number of submitters including:
 - Mr Dunn for the Department of Conservation (DoC);
 - Mr Deavoll for DoC; and
 - Mr Pearson for Fish and Game/Forest and Bird;
 - 3.2 the assertion made by Mr Pearson that environmental outcomes should be based on maintaining "current state" water quality in the catchment;
 - 3.3 the points made by Mr Deavoll and Mr Dunn for DoC that the prohibited instream damming status is necessary to protect the Canterbury mudfish (noting my evidence in chief (EIC) where I suggested that discretionary status would still provide a potentially high level of protection through the RMA requirements of the consenting process while at the same time enabling options for storage to accommodate the development of the Central Plains Water (CPW) Scheme); and
 - 3.4 Mr Pearson's strikethrough provided in Appendix 5 of his evidence (noting that it will be restrictive to the full development of the CPW Scheme).
- 4 As with my EIC, I confirm I have read the Environment Court practice note and have complied with it in preparing this rebuttal evidence.

"PERMISSIVE" PROVISIONS OF VARIATION 1

- 5 My EIC outlines the benefits and necessity of farming to provide for economic, cultural and social wellbeing. Mr Pearson (paragraph 18) acknowledges the extent of agriculture in the catchment, its

economic importance and the challenges it faces. However he also notes that there are some very good methods for land users to lower their environmental footprint while still providing for a profitable future.

- 6 While I agree in broad terms with the desirability of land users to lower their environmental footprint, any actual reduction or restriction regime must also take into account the actual "challenge" to farmers to balance the viability of their farming whilst adopting (or complying with) regulatory provisions such as Variation 1.
- 7 My EIC outlines some of these complexities, and more broadly why the CPW Scheme provides an opportunity to facilitate individual compliance and enhanced management on a larger scale. This is likely to include step-changes necessary to reduce nitrates, improve farm management practices, and improve record keeping, monitoring and reporting.
- 8 As set out in my EIC, the full development of the CPW Scheme is necessary to realise the full water management benefits sought through Variation 1. However, the concern I have, and which I continue to highlight, is the timing of nitrate management and the appropriateness of whatever percentage reductions that are applied at either an individual or at a scheme level.
- 9 Mr Pearson's evidence for Fish and Game (paragraphs 39 and 111) outlines his view that Variation 1 provides an overly permissive approach to farmers and particularly the CPW Scheme. Mr Pearson argues that, by allowing further nitrogen (N) allocation, the primary sector will be rewarded with additional allocation, before nutrient claw-back is achieved.
- 10 Mr Pearson further argues that environmental outcomes for the catchment should be revised on the basis of maintaining the current state water quality in the catchment (paragraph 35). In particular, Mr Pearson argues that the current state represents full allocation and that additional N allocation should only be allowed "*once allocation space has been created below the 'current state' defined limits*" (paragraph 45).
- 11 **Mr McIndoe** and the **Jacobs** scientists have outlined CPW N-loss management and the extent to which benefits to the water resources and Te Waihora/Lake Ellesmere are likely to be realised. On their advice and evidence, I consider it important that the ultimate focus is on the longer term gains from the CPW Scheme, rather than just the immediate need (if any) for a restrictions/reductions regime.

- 12 In this regard, Mr Pearson recognises that an integral part of the solutions package is the augmentation of environmental flows from the CPW Scheme, with higher flows having significant benefits for trout migration, fish passage and aquatic ecology generally (paragraph 109). However, Mr Pearson also argues that a lower risk approach is to reduce water over-allocation. Similarly, Mr Deavoll argues that the anticipated environmental flow benefits arising from the CPW Scheme are subject to external factors, which could delay these benefits being realised (paragraph 32). He argues on that basis that minimal flows should be addressed in the short term.
- 13 In reality, based on the evidence of **Mr Ford, Mr McIndoe** and the **Jacobs** scientists, the cost of being overly cautious is significant in terms of the potential impacts on farmers and the ability to recognise the longer term gains from the full CPW Scheme.
- 14 I also consider that setting a “*current state*” limit would be overly restrictive on the long term sustainability of farming systems and the full development of the CPW Scheme. In addition, it would restrict the ability of Variation 1 to achieve the desired water quality outcomes which are reliant on the CPW Scheme progressing.
- 15 Further, Councils are required to manage the water bodies in their Region based on current **and** future values as anticipated by Part 2 of the Resource Management Act 1991 (RMA), and this includes the future values of the catchment for the development of the primary sector.
- 16 The proposed Land and Water Regional Plan (pLWRP) also specifically provides for sub-regional chapters to set new limits that replace or complement those of the pLWRP. These limits may be more or less onerous provided that ultimate bottom lines for water quality in the National Policy Statement for Freshwater Management (NPS-FM) 2014 are met and the Regional Policy Statement (RPS) is complied with.
- 17 Mr Deavoll’s (paragraphs 8-13) and Mr Pearson’s (paragraphs 28-45) evidence go on to imply that policy B6 of NPS-FM 2014 requires an exact timeframe to address over-allocation. While Mr Deavoll recognises the several methods noted by Council Officers’ to address over-allocation, he does not consider the complexity of the measures and why a definitive date can’t be set. My EIC addresses some of those matters, including:
 - 17.1 the CPW Scheme is reliant upon uptake and construction after stage 1, which will only then result in the addition of water into the catchment. That commercial decision has many influences, including the Variation 1 provisions;

- 17.2 the modelling undertaken by the **Jacobs** scientists and **Mr McIndoe** outlines the additional water flows and benefits that can be realised from the full development of the CPW Scheme (and the reason why it is appropriate to have regard to the above);
- 17.3 the nature of the Selwyn Waihora catchment and the extent to which it is possible to actually predict environmental improvements (this includes uncertainties around, for example, the lag-time effect of the groundwater resources and the effect of improvements in the lower catchment).
- 18 I consider that Variation 1 ultimately needs to focus on allowing the development of the CPW Scheme to occur (so that the wider catchment outcomes can be met). Beyond that, the actual timeframes that apply to the CPW Scheme development are, at least to some extent, out of the control of Variation 1.

DAMMING

- 19 Mr Dunne and Mr Deavoll for DOC both outline their support for the prohibited status for instream damming (Rule 11.5.42 of Variation 1 of the pLWRP). In support for this rule, they primarily cite the protection of the Canterbury mudfish.
- 20 I consider that having the appropriate planning measures in place to protect the Canterbury mudfish may be necessary, but not as a blanket rule across all major waterways within the catchment.
- 21 Considering the effects of a proposal of the Canterbury mudfish would of course be a logical and I expect significant consideration in any application (which, as proposed by CPWL, would be for a discretionary resource consent). This would also include addressing the effects on significant character, features, habitat and various other matters as expected under sections 6 and 7 of the RMA.
- 22 My EIC addressed the benefits of the CPW Scheme (including increased flows), and how important it is for a discretionary status for dams to enable to potential storage of water for the CPW Scheme as it develops over time. Again, by not enabling the CPW Scheme to develop fully, the outcomes expected of Variation 1 will not be able to be realised.

PROVISIONS OF VARIATION 1

- 23 Mr Pearson has provided a strikethrough version of Variation 1 in Appendix 5 of his evidence. It appears that he is seeking:
- 23.1 an interim catchment nitrogen load limit for farming for 2037 (Pearson's Rule 11.4.14A);
 - 23.2 progressive measures to review and revise, by way of plan change if necessary, the N-load interim targets for the Selwyn Waihora catchment (Pearson's Rule 11.4.17A);
 - 23.3 a suite of rules associated with time bound and greater structure to nutrient management, sediment and microbial contaminants, based on property size, timeframes, and nitrogen loss; and
 - 23.4 the removal of Irrigation Schemes rules.
- 24 Were it to be implemented, the general higher level 'rigour' in Mr Pearson's strike-through (Appendix 5) would obviously be a potential further deterrent to investors in the CPW Scheme. It also highlights the need for decision makers to balance the rigour of planning provisions with the incentive for the CPW Scheme to fully develop (preferably sooner than later).
- 25 Further, the removal of Irrigation Scheme Rules and Table 11(j), and associated nitrogen limits, does not recognise the values (social, cultural, environmental and economic) that exist within the catchment that have the potential to be transformed through the CPW Scheme.

CONCLUSION

- 26 As I concluded in my EIC, I consider that the full development of the CPW Scheme is consistent with the broader policy framework (including the NPS-FM 2014, pLWRP and the RPS).
- 27 On the basis of evidence provided it appears that the general benefits of the CPW Scheme are largely undisputed. The key to ensuring catchment water quality outcomes are achieved is instead weighing up how the Variation 1 provisions can be structured to empower landowners and other interested persons to meet the wider objectives of Variation 1.

Dated: 8 September 2014

Hamish Peacock