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Please note: all information contained in a submission under the Resource Management Act 1991, including names and addresses for service, becomes public information.

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**SUBMISSION FROM THE
CENTRAL SOUTH ISLAND FISH AND GAME COUNCIL**

SUBMITTER: Central South Island Fish and Game Council
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REGIONAL COUNCIL: Pareora Catchment Environmental Flow and Water
Allocation Regional Plan Submission
Environment Canterbury
PO Box 345
Christchurch

This submission is made in reference to the publically notified *Pareora Catchment Environmental Flow and Water Allocation Regional Plan, August 2010*.

FISH AND GAME COUNCILS AS STATUTORY BODIES:

Fish and Game Councils (hereinafter referred to as 'Fish and Game') are Statutory Bodies with Functions (*inter alia*) (Section 26Q, Conservation Act 1987) to:

'manage, maintain and enhance the sports fishery and game resources in the recreational interests of anglers and hunters.....'

'to maintain and improve the sports fish and game resource by maintaining and improving access to...'

'in relation to planning, - to represent the interests and aspirations of anglers and hunters in the statutory planning process ...' and

'to advocate the interests of the Council, including its interests in habitats...'

In addition, Section 7(h) of the RMA states that all persons *'shall have particular regard to... the protection of the habitat of trout and salmon.'*

Statutory managers of freshwater sports fish, game birds and their habitats

Central South Island Region

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Note: The outcomes sought and the wording used is as suggestion only, where a suggestion is proposed it is with the intention of 'or words to that effect'.

Central South Island Fish and Game would like to reserve the right to be heard in support and expansion of this submission in the event of a hearing.

Values

Fish and Game have long voiced concerns about the management and degraded state of the Pareora River. The river is nevertheless still a noted brown trout fishery, the range of angler days spent on the river from have varied from 190 +/- 110 to a surprisingly high 850 +/- 290 over the last 15 years (data sourced from NIWA National Angler Surveys), the decline in the fishery has been significant. The river's angling opportunity was prolific and highly popular in the 1940's and 50's with large numbers of fish reportedly caught.

The Pareora River fishing and other recreational opportunities have meant that a long standing fishing village of kiwi holiday homes has been established, further highlighting the importance of the river to families and individuals. Today, the best angling is enjoyed between SH1 and the coast and in the section from Motukaika to the Pareora Fishing Huts.

Sea run brown trout up to 3 kg spawn mainly in the section between Brassells and the Old Dam in the Pareora Gorge. Success is variable depending on flows at the time when the fish return between May and July each year. If the flows are low and or non existent and the river mouth is not functioning fish cannot access the river. On the few occasions when there is adequate flow to sustain fish passage, chinook salmon are also known to enter the river to spawn up to the dam. The dam subsequently severs fish passage upstream.

Upstream of the dam there is a reasonable population of resident brown trout of up to 2 kg which spawn in the Upper Pareora as far up as the TDC intake site as well as other tributary streams such as the Motukaika, White Rock and Burnett streams. However, spawning success remains variable depending on adequate flow to enable fish passage, and consistent flows with no flooding during the incubation period of mainly June - July.

The Pareora Lagoon and associated wetland habitat offer good hunting opportunity. The area could be greatly enhanced by better management. Trout populations are also notable in the lagoon when conditions are suitable and are being utilised by anglers.

Issues and Concerns Fish and Game have identified in the Pareora Catchment

- Inadequate minimum flow
- Over allocation
- Water quality
- Restrictions on fish passage
- Fish screening provisions

The Proposed Pareora Catchment Environmental Flow and Water Allocation
Regional Plan (Pareora Plan)

Fish and Game supports the Plan (subject to the alterations sought in this submission) and particularly the attention given to meeting the purpose and principles of the Resource Management Act, 1991. We support the objectives identified in the Plan together with the emphasis given to meeting the requirements set out in Part II of the Act.

Fish and Game have had a strong involvement with the development of the Pareora Plan and have held a position on the steering panel for the last three years. The process has allowed varying affected parties to get together, establish what the issues were in the catchment and reach a resolution that will provide benefits to all parties involved. While the process does not deliver the outcome initially sought by Fish and Game, the process can be used as an example of how competing interest groups can achieve an improvement on the status quo.

Fish and Game consider the process has eventuated in an improvement to instream values however, still does not provide appropriate flows that will restore the life supporting capacity of the river back to its natural state. The plan does however provide an opportunity to review flows in the future with the intention to further raise the minimum flows. The A block allocation in the Pareora Catchment is significantly over allocated and therefore it is necessary to "claw back" the water in a progressive process, however, there needs to be clear and robust policy and rules to ensure this will happen. Without ongoing, certain progression, the plan is simply leaving complete resolution of the issues to a later date.

The plan appears to have a reliance on alternative sources of water and voluntary surrender of consent. These dependencies, in my opinion, do not create a secure process of achieving the proposed objectives. There is little incentive for A block users to surrender their takes and move to flow harvesting. This area of the plan needs to be revisited otherwise there is very little scope for future improvements to occur.

SUBMISSIONS ON SPECIFIC PROVISIONS:

Number of provision: Issues 2
Support or oppose: Support in part.
Reason(s) for our submission on this provision: The identification of issues within the Pareora Catchment is inadequate. Other impacts on the river that have eventuated through abstraction include: <ul style="list-style-type: none"> • Increased duration and frequency of mouth closure. Also extended reach of dryness, not just duration. • Impacts on recreational activity including fishing and bathing. • Effects on water quality • Lack of fish screening provisions
Relief sought: Include issues listed above in the issues section.
Objectives

Number of provision: Objective 1
Support or oppose: Supported in part.
<p>Reason(s) for our submission on this provision:</p> <p>Integrated management should recognise the importance of connectedness between all parts of the catchment from the mountains to the sea (as referred to in the "Explanation of Objectives"). This objective should be expanded to not only refer to surface and groundwater connection but also the connection of the river to the sea. This is appropriate seeing mouth closure is an issue in the catchment.</p> <p>Amend Objective 1 to read:</p> <p>"The Pareora River Catchment is managed in an integrated fashion, recognising the interconnectedness of surface and groundwater resources in the catchment <u>and the connectedness from the mountains to the sea.</u>"</p>
Number of provision: Objective 2
Support or oppose: Supported in part.
<p>Reason(s) for our submission on this provision:</p> <p>As described above, the Pareora is in a degraded state. The objective does not provide a goal to repair the damage already inflicted on instream values only to maintain the status quo. Fish and Game seek the objective is amended to "enhance" rather than "maintain" current environmental values as the objective, in it's current wording, does not seek a restorative outcome.</p> <p>Relief sought:</p> <p>Amend Objective 2 to read:</p> <p>"The economic and social benefits of surface water abstraction from the Pareora River Catchment are recognised and provided for ,while <u>maintaining enhancing</u> existing ecological, cultural, recreational and amenity values in the Pareora River and its tributaries, and reliability of supply for existing abstractors."</p>
Number of provision: Objective 4
Support or oppose: Support
<p>Reason(s) for our submission on this provision:</p> <p>Efficient use of water is imperative especially in a catchment that is already over allocated.</p> <p>Relief sought:</p> <p>Retain as worded</p>
Number of provision: Objective 5
Support or oppose: Support in part
<p>Reason(s) for our submission on this provision:</p> <p>The proposed minimum flow in the plan is a continuation of the status quo apart from the months of October and November when the minimum flow is raised to 470l/s. Fish and Game support the increased minimum flow over the months of October and November as increased flows at this time provide the best opportunity for anglers. While the plan has provided the opportunity for instream values to improve, the</p>

outcome is still far from the environmental flows recommended by Golder Associates¹ of 660 l/s, necessary to protect life supporting capacity. Therefore Fish and Game support the initiative to increase in minimum flow over time.

In addition, the objective could be strengthened by removing the words "where possible".

Relief sought:

Remove words "where possible" from the objective.

Policies

Number of provision: Policy 1.1 (a), page 15

Support or oppose: Supported in part

Reason(s) for our submission on this provision:

The wording in Policy 1.1 a) "where practical" is unnecessary and weakens the policy. The river and instream values have been significantly degraded over time and there should be clear policy seeking enhancement of environmental values.

Relief sought:

Remove words "where practical" from policy.

Number of provision: Policy 1.3

Support or oppose: Supported in part

Reason(s) for our submission on this provision:

It is necessary that water is taken for infrastructure maintenance however the policy should be more specific by providing definitions on 'maintenance' and what is considered 'temporary'.

In addition, it would be sensible to have a limit on the rate of take.

Relief sought:

Retain as worded and provide definitions for 'temporary' and 'maintenance' in the definitions section.

Number of provision: Policy 1.4

Support or oppose: Supported in part

Reason(s) for our submission on this provision:

Fish and Game support policy 1.4, some non consumptive uses are dependant on constant flow therefore should continue exempt from minimum flow restrictions. The policy however should provide a limit on the amount of water diverted to prevent a reach of the river from being depleted for an extended amount of time.

In addition, Policy 1.4 should specify that water needs to be discharged back into the waterway within the same vicinity as where it was taken from. While this is specified in the rules, it is important that any diversion does not deplete the river of water for an extended reach. This is necessary to protect instream values.

Relief sought:

¹ Golder Associates, 2008. Pareora River Aquatic Ecology and Minimum Flow Requirements Report

Provide a limit on the amount they want to divert and incorporate vicinity into the policy.
Number of provision: Policy 1.6
Support or oppose: Support
Reason(s) for our submission on this provision: Policy 1.6 prevents damming of the main stem except where a dam is lawfully established prior to this plan becoming operative. This policy is consistent with section 6 of the Resource Management Act 1981 (RMA). Relief sought: Retain as worded
Number of provision: Policy 1.7
Support or oppose: Support in part
Reason(s) for our submission on this provision: Fish and Game support the intention of Policy 1.7 which is to motivate TDC to use water less water however, reducing take through an Assets Management Plan does not provide any certainty that the take will actually be lessened. This policy needs to be strengthened to require TDC to reduce it's take over time. It may be that a separate policy is necessary that ensures efficiency of use is re evaluated upon review of consent and alternative water sources sought. Relief sought: Strengthen policy. Fish and Game is not in a position to suggest appropriate wording as there may be legal aspects to consider.
Number of provision: Policy 1.11
Support or oppose: Support in part
Reason(s) for our submission on this provision: As I understand Policy 1.11, the intention is that if any A block allocation is surrendered, it is returned to the river with the aim of reducing the A allocation block to 30% MALF and restoring flows to the river. The policy does not clearly state that water from current consents that become available will be returned to the river and the amount of water allocated in the A block will be reduced. Relief sought: Amend policy to read: <i>"To ensure that the water from any existing water take included in the A Block in Table 1 which lapses, is surrendered or is cancelled, is not reallocated as an A Permit and flows are returned to the river, unless it <u>the take</u> complies with Policy 1.8"</i>
Number of provision: Policy 1.13
Support or oppose: Oppose
Reason(s) for our submission on this provision: Fish and Game seek Policy 1.13 be deleted. This policy is inconsistent with the Regional Policy statement. Generally planning documents do not provide exemption from minimum flows for frost protection. This policy does not take into account future changes that may occur in the catchment and is unique to one farmer. While Fish and Game do not oppose of water being used for frost protection we do not consider

the proposed policy to be appropriate.

Relief sought:
Delete policy

Number of provision: Policy 1.14

Support or oppose: Support in part

Reason(s) for our submission on this provision:

Policy 1.14 should be strengthened as it does not require TDC to take any action in reducing their take. The policy seeks to "encourage" TDC to make efficiency improvements, this does not provide any certainty that improvements will be made.

Fish and Game support the 70 l/s TDC has surrendered during the months of October/ November. Angling records indicate most use for trout fishing (500 angler-days per month) throughout the lower river in October and November when flows can often be sustained naturally at 1,000 to 1,500 l/s at the huts. Flows later in the fishing season (to April) do not generate the same use. The continuity of flows from winter when spawning distributes fish widely, to good flows in the spring is the critical issue that generates angler activity. Therefore an increased flow (albeit not at 1000 l/s) during this time of year will aid in enhancing fishery values.

It is however unclear why the community needs an additional 70 l/s of water all other months of the year.

In addition it should be clarified that the 70 l/s surrendered by TDC will be returned to the river for environmental benefit and will not made available for out of river use.

Relief sought:

As above, the policy should be strengthened however Fish and Game is not in a position to suggest appropriate wording as there may be legal aspects to consider.

It should be clarified in the explanation (or in the policy itself) that the water discharged is to contribute to river flows and not to be reallocated.

Number of provision: Policy 1.18

Support or oppose: Support in part

Reason(s) for our submission on this provision:

Fish and Game is not opposed to the formation and function of an irrigation water users group providing that its powers are limited to administering a roster in order to maximise exercise of consents available within:

- a) the current minimum flow constraints and
- b) the limitation that imposes on each individual consent to take water.

Fish and Game is opposed to any delegation of power to a water user group to change the extent of individual authorised abstractions during periods of restriction. While matters of equity might be agreed or otherwise between farmers, the issue we see is a matter of legal interpretation of consent conditions attached to the individual farmers water permit. For example, if the flow is such that all consented take is restricted to 50% of that stated on the consent, it is inappropriate that a water user

group should sanction the consent holder to exceed that 50% limit. If a water user group authorises an individual consent holder to exceed their authorised restricted take during a period of restriction, that we submit, constitutes a breach of consent condition and raises a question of liability. Delegating that power to a water users group is, we submit, unwise.

Relief sought:

Amend to read:

'To limit the maximum rate of take of any surface water and hydraulically connected groundwater abstracted under any lawfully established A Block consent used for irrigation from within the Pareora River Catchment to 50% of the consented maximum rate of take as per Table 1, unless the consent holder is part of a Water Users Group approved by the Canterbury Regional Council which gives effect to the environmental flow and allocation regime in Table 1 while maintaining the necessary restriction attendant to individual consents held by members within the water user group.'

Number of provision: Policy 1.19

Support or oppose: Supported in part

Reason(s) for our submission on this provision:

Policy 1.19 is supported however is inconsistent with Objective 5. The proposed plan seeks to resolve the issue of over allocation in the A block by gradually addressing the minimum flow, therefore for actual resolution there needs to be a clear commitment to increasing minimum flow over time. As I interpret Policy 1.19, the intention is to raise the minimum flow however, it could be interpreted as an opportunity for the minimum flow to be decreased again if no adverse effects are detected. The policy should be reworded to ensure environmental benefit only. 10 years of further degradation may occur at the proposed flow regime. Considering the amount of degradation that has already occurred a 5 year review policy is more appropriate.

Relief sought:

Amend to read:

"To further review the effects of run-of-river abstraction on instream values in the Pareora River Catchment by reviewing increasing the minimum flow ~~10~~ 5 years from notification of this Plan."

Number of provision: Policy 3.1 (e)

Support or oppose: Support

Reason(s) for our submission on this provision:

As far as I am aware, the distance of dry reach has never been measured. Therefore I am unsure ECan will determine if the length of dry reach has been extended through transfer, there is no base data to compare to. Area of dryness is however an issue that should be investigated, gaining quantitative information on dry area should be a future priority.

This policy can only be effective if quantitative data is available for comparison, it would be more appropriate if the clause was amended to read:

"Exercising the consent post-transfer does not result in an increase in the length or duration of river dryness."

3.2 (a)(vi) and (b)(v) should be amended also to provide consistency.

Relief sought:

Policy is amended to read as per suggested above and ECan considers measuring length of dryness in the future, as well as duration.

Number of provision: Policy 3.1 and 3.2

Support or oppose: Oppose

Reason(s) for our submission on this provision:

Fish and Game supports the process allowing transfer of consent from an existing owner/occupier to a subsequent owner/occupier as provided for under Section 136(1) of RMA. Under such circumstance, there is little risk that there will be any change in the intent or ability to exercise the original consent, and therefore little risk that existing impacts to the instream environment or to other consent holders will be changed.

However Fish and Game is opposed to the transfer of irrigation consents from site to site in the same catchment. Notwithstanding that the irrigation area is unlikely to be the same, the exercise of the consent at the new site may well change the residual flow hydrology downstream from the take site impacting on the instream environment and potentially the interests of other downstream consent holders.

We do not believe allowing transfer of consents from site to site will promote more efficient use, that is more likely to be achieved through the imposition of strict standards regulating the maximum rate and volumes allowed to be granted for irrigation abstraction and urban and rural water supply takes. Instead we see such transfer as simply opportunity for land owners/occupiers to trade a public resource, and more significantly to profit from that trade.

An additional clause under policies 3.1 and 3.2 should be inserted that ensures a transfer of take does not impact on instream values and rules that correspond with these policies should be discretionary activities.

Relief sought:

Incorporation of suggested clause:

"the transfer does not result in adverse effects on instream values"

Number of provision: Policy 3.3 (b), (c), (d) and (e)

Support or oppose: Support in part

Reason(s) for our submission on this provision:

Fish and Game support Policy 3.3, efficient use of water is imperative for sustainable management in the Pareora Catchment however, we have the following comments:

Clause (b) Remove "transfer", the priority should be for surrendered consents to return flows back to the river. As mentioned above, Fish and Game do not believe transfer of consents encourages efficient use and consider the use of transfer for

economical benefit rather than environmental enhancement is inconsistent with the priorities stated in the ECan Act.

Relief sought:

Amend to read:

(b) "Encouraging the surrender ~~or transfer~~ of unused water takes;"

Clause (d) Fish and Game support the requirement of flow metering therefore also support Policy 3.4.

Number of provision: Policy 3.5

Support or oppose: Support in part

Reason(s) for our submission on this provision:

This policy is inconsistent with priorities and principles of the ECan Act as it places irrigation as a priority above the environment. The policy should be amended to ensure that the minimum flow and allocation will only be reviewed to provide environmental benefit.

Relief sought:

Amend to read:

"As part of any proposal to provide additional water for irrigation in the Pareora River Catchment under Policy 1.16, to review the environmental flow and allocation regime (and groundwater allocation limits) for the Pareora River Catchment, in particular the minimum flows set out in Table 1 ensuring that the revised flow will benefit environmental values."

Number of provision: Policy 3.6

Support or oppose: Support

Reason(s) for our submission on this provision:

The common consent expiry date required under this policy will aid in achieving effective catchment management.

Relief sought:

Retain as worded.

Additional Policies

Fish and Game seek the following policies be incorporated into the plan:
Considering the largest take from the catchment is the Timaru Community supply, efficiency standards should not only be applied to irrigation practices.

Relief sought:

Incorporate additional policy:

"Requiring resource consent applications for town and community supplies or stock water drinking systems to meet reasonable use test in relation to the rate of abstraction "

There are standards in the Rule section that relate to fish exclusion and maintaining fish passage in diversions. Fish screening and passage is imperative in protecting

instream values therefore assists in achieving Objective 2. Fish and Game seek a Policy in relation to fish passage and exclusion is incorporated into the plan.

Relief sought:

Incorporate additional policy:

"Requiring water takes to be appropriately screened as per the NRRP guidelines to protect instream life"

Number of provision: Rule 1.1

Support or oppose: Support in part

Reason(s) for our submission on this provision:

It is important that water being diverted for maintenance procedures does not impact on fish passage, nor result in fish becoming entrained in a race.

Relief sought:

Amend to include additional clause under "conditions":

"(f) flow is maintained to ensure fish passage is not impeded and fish are returned to water unharmed"

Number of provision: Rule 2.1(c)

Support or oppose: Oppose

Reason(s) for our submission on this provision:

It is appropriate to have a limit on the amount diverted. Fish and Game is however unable to provide comment on what an appropriate limit may be.

The water should be discharged into permanently flowing water to avoid the potential stranding of fish.

Relief sought:

Amend to read:

(c)"The water is discharged back into the same surface water body and into active flowing water within 250 metres of the point of take."

Number of provision: Rule 2.2 (b) and (c)

Support or oppose: Support in part

Reason(s) for our submission on this provision:

Fish and Game is not comfortable with the reliance on an Assets Management Plan to reduce water usage, it provides little certainty that changes will be made. Rule 2.2 (b) should be strengthened to require efficiency improvements upon review of consent.

Relief sought:

Policy 2.2 (c) should be amended to read:

"Fish shall be prevented from entering the water intake, by way of a fish exclusion device and returned to water unharmed."

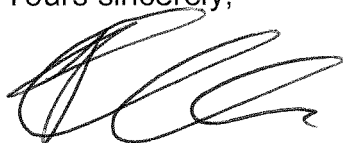
Number of provision: Rule 2.3 (d)(iii)(d)
Support or oppose: Support
Reason(s) for our submission on this provision: Fish exclusion devices are necessary in maintaining fishery values in the Pareora. Relief sought: Retain as worded
Number of provision: Non complying rules 4.1, 4.2, 4.3
Support or oppose: Support
Reason(s) for our submission on this provision: The rules determining a non-complying activity aid in protecting the instream values of the Pareora. Relief sought: Retain as worded
Number of provision: Rule 9
Support or oppose: Oppose
Reason(s) for our submission on this provision: Fish and Game is opposed to the transfer of irrigation consents from site to site in the same catchment. Notwithstanding that the irrigation area is unlikely to be the same, the exercise of the consent at the new site may well change the residual flow hydrology downstream from the take site impacting on the instream environment and potentially the interests of other downstream consent holders. Due to the potential instream effects the transfer of consents should be a restricted discretionary activity to allow a thorough assessment of instream effects. Relief sought: Transfer of irrigation consents is a made restricted discretionary activity rather than controlled.
Number of provision: Table 1
Support or Oppose: Support in part
Reason(s) for our submission on this provision: The minimum flow for the Pareora is currently set at 300 and 400l/s restriction with higher minimum flows to allow for flow harvesting. Fish and Game consider that this minimum flow does not have the ability to safeguard instream values and therefore support the review of the minimum flow and application of an adequate flow regime as an outcome of the ICM process. The current minimum flow was set in the 1980's primarily to afford some protection to the meatworks. The ability of 300/400 l/s to protect instream values was given scant consideration, recognising that at the time only around two years of hydrological data was available. No aquatic ecosystem science was applied. At the start of the ICM process Fish and Game suggested MALF as an appropriate minimum flow for the Pareora. MALF can be used as an ecologically defensible minimum flow, especially where

there is little hydrological information available and Fish and Game consider that MALF as a minimum flow (along with an appropriate limit on total abstraction within allocation blocks and in some cases flow sharing) is likely to protect aquatic values. Typically around New Zealand, Regional Councils have adopted MALF for smaller streams and 1:5 or sometimes 1:10 LF for larger rivers as an appropriate minimum flow. MALF for the Pareora River is 661 l/s. The current minimum flow is less than half of the natural MALF and in smaller streams around the size of the remaining Pareora, the ecosystems tend to be more vulnerable to abstraction and water quality degradation than that associated with larger rivers.

Golder associates were employed by ECan to carry out an analysis on what flows are appropriate to protect instream values within the Pareora. Greg Burrell, who carried out the assessment, concluded that a minimum of 660 l/s was appropriate.

The minimum flow adopted by the plan is a long way off what Fish and Game initially sought however does offer an improvement on the status quo with the aim to increase the minimum flow in the future. Therefore Fish and Game support the improvements made.

Yours sincerely,



Devon Christensen
Resource Officer
Central South Island Fish and Game

1st October 2010