

**Proposed Plan Change 2 to the Waitaki
Catchment Water Allocation Regional
Plan**

October 2014

I hereby certify this is the true and correct copy of Plan Change 2 to the Waitaki Catchment Water Allocation Regional Plan as adopted by the Canterbury Regional Council at its meeting on 9 October 2014

The Common Seal of the Canterbury Regional Council was fixed in the presence of:



**Bill Bayfield
Chief Executive
Canterbury Regional Council**



**Dame Margaret Bazley ONZ, DNZM, Hon D Lit
Chair
Canterbury Regional Council**



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IN THE MATTER OF

The Resource Management Act 1991

AND

IN THE MATTER OF

Proposed Plan Change 2 to the
Waitaki Catchment Water Allocation
Regional Plan

**WAITAKI PLAN CHANGE 2: REPORT AND RECOMMENDATION OF
HEARING COMMISSIONER Andrew Fenemor**

SUMMARY OF PROPOSED PLAN CHANGE 2 (MÄEREWHENUA RIVER)

Content of Plan Change 2

1. Water is currently over-allocated for extraction from the Mäerewhenua River and associated gravels on the south bank of the Waitaki River. Proposed Plan Change 2 of the Waitaki Catchment Water Allocation Regional Plan (WCWARP) proposes to resolve this by amending the flow and allocation regime and the minimum flow monitoring point on the Mäerewhenua River.
2. The WCWARP in Rule 2 Table 3(xx) currently sets an *allocation limit* for water extraction from the Mäerewhenua River of 0.4 cubic metres per second (cumecs)(400L/sec). It also sets a *minimum flow* of 0.4 cumecs as measured at the State Highway 83 Bridge (SH83) near Duntroon.
3. Plan Change 2 proposes to
 - (a) reduce the allocation limit from 0.4 to 0.2 cumecs,
 - (b) move the point at which the minimum flow is achieved from SH83 to Kelly's Gully some 13 km upstream, and

(c) to clarify that the flow and allocation regime for the Māerewhenua River encompasses not just the mainstem but its tributaries as well.

4. The proposed amendments to the Rule 2 Table 3 of the WCWARP are shown below with additions shown as shaded. Underlined words indicate that the Plan provides a definition for these terms. I have included the full content of Table 3(xx) as some written submissions sought changes to (c) and (e).

<p>xx. Māerewhenua River and tributaries</p>	<p>a. <u>A minimum flow</u> of 0.4m³/s at State Highway 83 Kelly's Gully.</p> <p>b. An <u>allocation limit</u> of 0.4m³/s 0.2m³/s.</p> <p>c. <u>Flow-sharing</u> between the thresholds of 0.8 and 2.0 m³/s</p> <p>d. Any water taken, diverted, dammed or used pursuant to the <u>flow-sharing</u> regime is in addition to the <u>allocation limit</u></p> <p>e. Any water taken when the river is above 2 m³/s is in addition to the <u>allocation limit</u> and <u>flow-sharing</u> regime.</p>
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The proposed plan change does not amend any other part of the WCWARP, including any objectives or policies.

Context for Plan Change 2

5. Plan Change 2 has been prompted by two factors:
- (a) An expectation that Environment Canterbury should review existing water permits so that they comply with the allocation limits and minimum flow requirements of Table 3 of the WCWARP (and Rule 25 effectively allows Environment Canterbury to do this any time after 3 July 2013), and
 - (b) the need to renew water permits which began expiring in the Māerewhenua catchment in 2010, in compliance with the WCWARP, including the current allocation limits and minimum flows of Table 3(xx).
6. The Māerewhenua water take permits, which authorise a current total combined take of 695L/sec (0.695 cumecs, compared with the current allocation limit of 0.4 cumecs) would under the operative WCWARP need to have allocations cut back to meet the allocation limit.

7. Applying the WCWARP minimum flow requirement at SH83 would also reduce the times during low flows that water could be taken, reducing their reliability of supply. Current water permits either have no minimum flow restrictions, or prescribe minimum flows measured at Kelly's Gully, located about 13km upstream of SH83. The effect of those current conditions is that the river would be more likely to run dry, than if the current WCWARP rules were fully implemented.
8. Water users and interested parties in the Māerewhenua catchment have joined forces to find a solution. The proposition involves some Māerewhenua catchment water users transferring their annual allocation of water to the Māerewhenua District Water Resource Company (which takes its water instead from the Waitaki mainstem), and taking up shares for the irrigation of their properties. The reduction in water usage on the Māerewhenua River will provide greater certainty and water security for the remaining water users on the river.
9. Plan Change 2 implements this proposition; it is a collaborative proposal developed by water users. It has been reviewed and endorsed by the Lower Waitaki – South Coastal Canterbury Zone Committee, and forms part of an addendum attached to the Lower Waitaki – South Coastal Canterbury Zone Implementation Programme (ZIP). In August 2012, the Zone Committee made a recommendation to the Council to adopt the ZIP addendum and notify a Plan Change. This is that plan change.

NOTIFICATION, SUBMISSIONS AND HEARING

10. WCWARP Plan Change 2 was notified on 20 November 2013 with submissions closing on 17 December 2013. Fifteen submissions were received, with 11 in support and 4 in opposition.
11. No submitters opposed the proposed reduction in allocation limit and inclusion of tributaries in Table 3(xx). Eleven submitters, including irrigation interests and Ngai Tahu, supported the change proposed to minimum flow. Three submitters, comprising Fish & Game, the Lower Waitaki River Management Society and a local resident, were concerned that a minimum flow of 0.4 cumecs at Kelly's Gully may be too low to protect river values downstream. One submitter wanted assurance that the plan change would not impact on the Tokorahi Water Supply scheme. Three submitters, all irrigators, sought changes to the flow-sharing regime above the allocation limit.
12. The Summary of Decisions Requested (SODR) was notified on 12 April 2014, with further submissions closing on 30 April 2014. Only two further submissions were received, both in support of the original submission from the Des Conlan Trust, which had sought approval of the plan change in its entirety.
13. The hearing took place at the Opera House Oamaru on 19-20 June 2014. I visited the Māerewhenua catchment between Kelly's Gully and SH83 on 18 June, in the company of ECan hydrologist Adam Martin, to familiarise myself with the river morphology and catchment geography.

14. The s42A evaluation of the plan change proposal was presented by Ms Angela Fenemor (no relation to me as commissioner), with expert technical evidence summarised by hydrologist Michael Law and freshwater ecologist Dr Greg Ryder. An economics assessment of the plan change by Simon Harris was taken as read.
15. Evidence was then presented by Keri Johnston and hydrologist Dave Boraman (representing Māerewhenua Water Users Group), David Ruddenklau (Pukeraro Trust), Des Conlon (Des Conlon Trust), Kelvin Weir (Māerewhenua District Water Resource Company Ltd), Matthew Ross (Waitaki Independent Irrigators Incorporated Society), Elizabeth Soal (Waitaki Irrigators Collective Ltd) and Bridget Pringle (Central South Island Fish and Game Council).
16. Despite indicating a wish to present on the morning of 20 June, there was no appearance from the Lower Waitaki River Management Society.
17. The hearing was adjourned on 20 June, and closed on 24 July following receipt from Mr Regnault, Senior Planner, of Environment Canterbury's written right of reply to the various issues identified during the hearing.

STATUTORY AND PROCEDURAL ISSUES

18. Ms Fenemor described in her s42A report the statutory basis under the Resource Management Act for deciding a plan change, and the relevant policy documents to be considered. Only a brief summary is needed here. However all relevant policy documents have been taken into account in this evaluation.
19. The process for making a change to a regional plan is prescribed in clauses 1 – 20A of the First Schedule to the RMA. In particular, clause 10(2) requires the decision to include the reasons for accepting or rejecting submissions.
20. The decision on proposed Plan Change 2 must give effect to the 2013 Canterbury Regional Policy Statement and the NPS for Freshwater Management (2014) (NPSFM). The NPSFM 2014 came into effect on 1 August 2014 which is after I closed the hearing; however I am advised that because the decision on Plan Change 2 will be made after the new NPSFM came into force, this recommendation must consider the 2014 NPS not the former 2011 version.
21. Section 32 of the RMA requires consideration of alternatives and the costs and benefits of the proposed plan change. Among other matters, that evaluation must examine whether, having regard to efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the WCWARP objectives. A December 2013 amendment (ab) to clause 10(2) of Schedule 1 also now requires a further s32 evaluation as a part of this decision, if the plan change or decision on the plan change differs from that for which the original s32 evaluation was carried out.

22. Of relevance to this decision is that in making numerical changes to the water allocation limit and minimum flow, regard must be had to any actual or potential effects on the environment, including, in particular any adverse effect (Section 68(3)).

The National Policy Statement for Freshwater Management 2014 (NPSFM)

23. The National Policy Statement for Freshwater Management (NPSFM) was gazetted on 4 July and came into effect on 1 August 2014. The NPSFM 2014, like its predecessor, seeks to address over-allocation (Objective B2) and to safeguard life-supporting capacity, ecosystem processes and indigenous species (Objective B1).
24. It is my opinion that because proposed Plan Change 2 is not seeking to change existing plan objectives yet is phasing out existing over-allocation in a manner which meets the requirements of Objective B1, the plan change as proposed would give effect to the NPSFM 2014.

Canterbury Regional Policy Statement 2013 (RPS)

25. Objectives of the Canterbury Regional Policy Statement 2013 (RPS) relevant to Plan Change 2 include 7.2.1 (managing for a range of values) and 7.2.4 (integrated management including recognising the role of zone committees). Policy 7.3.4(1) supports the establishment of environmental flow and water allocation regimes, while policy 7.3.4(2) directs Council to address adverse effects of over-allocation, as is proposed in Plan Change 2.

Waitaki Catchment Water Allocation Regional Plan (WCWARP)

26. The WCWARP - the plan being changed by this plan change – includes objectives and policies which are relevant in deciding the Plan Change. This is because the plan change needs to still be able to allow the policies and objectives (which are not proposed to be changed) to be achieved.
27. Objectives 1 and 2 are relevant and delivered through policies 3 and 4. Policy 4 is particularly relevant to Plan Change 2 as it specifies matters to be considered under the proposed changes to the Māerewhenua environmental flow and level regime:
- a. *mauri and healthy ecosystems of indigenous species, including mahinga kai species;*
 - b. *wāhi tapu sites or areas, and wāhi taonga;*
 - c. *natural character, landscape, and visual amenity;*
 - d. *vegetation within and adjacent to the water body;*
 - e. *habitats including those of invertebrates, birds and fish;*
 - f. *fish passage, as appropriate, including controlling spread of non-indigenous species into new areas;*
 - g. *undesirable periphyton and sediment accumulation;*
 - h. *effects on water quality;*
 - i. *maintenance of groundwater flows;*
 - j. *naturally occurring dry river or stream beds;*
 - k. *the potential for establishment of invading exotic vegetation;*
 - l. *bedload and sediment transport processes;*

- m. shoreline or bank erosion;
- n. functioning of the river mouth;
- o. recreation opportunities;
- p. existing flow and level regimes, physical resources and activities;
- q. the amount and reliability of water that can be taken, used, dammed or diverted;
and
- r. accessibility to water bodies and their margins.

28. In addition, among other things, policy 44 provides particular guidance for establishing environmental flow regimes (including minimum flows) in the Māerewhenua River, where the trout spawning value is explicitly identified. This implies a need for adequate flows for spawning trout to move upstream during the spawning period.
29. Of relevance to the submissions about flow-sharing are objective 5 and policies 23 and 26 which provide for a reduction in abstraction during times of low flow and specify targets for supply reliability when water is allocated:

The first priority band will be set to provide a reliability which either:
(a) allows at least 95 percent of the allocation specified on the consent to be taken in any 14-day period from August to May in 6 years out of 10, and at least 75 percent of the allocation specified on the consent to be taken in any 14-day period from August to May in 9 years out of 10; or
(b) if the existing reliability is less than that specified in Policy 26a, maintains the existing reliability.

Canterbury Water Management Strategy

30. The Canterbury Water Management Strategy (CWMS) contains a vision and high level principles which are reflected in the RPS. The ECan Act 2011 requires Council to have particular regard to the vision and principles when making planning decisions.

Iwi Management Plans

31. Te Rūnanga of Ngai Tahu and kaitiaki rūnanga have prepared a number of Iwi Management Plans (IMPs) to assist in the management of resources that have significance to Ngai Tahu. The Council must take those into account when preparing a plan change.
32. As Tē Rūnanga o Ngai Tahu, Tē Rūnanga o Arowhenua, Tē Rūnanga o Waiho and Tē Rūnanga o Moeraki have lodged a submission in support of Plan Change 2, the plan change can be considered concordant with their IMPs.

¹ The Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 (the 'ECan Act')

CURRENT CONTEXT FOR THE MĀEREWHENUA CATCHMENT

33. There was some discussion at the hearing about the current allocations on consents (water and discharge permits) within the catchment. Ms Fenemor, acting for ECan, and Ms Keri Johnston (on behalf of irrigators) have provided an agreed summary of current water permits which includes their current allocations as well as the eight water take permits which will exist after Plan Change 2 is fully implemented (Annex 1).
34. This summary has enabled me to better appreciate the spatial variability of the water takes and the parts of the Māerewhenua River which are affected by those takes and diversions. There are also two discharge permits which authorise the occasional release of irrigation bywash and dam spill water, one near Earthquake Road and the other below the SH83 bridge.
35. There was also discussion at the hearing about ECan's legal ability to review current consents to bring them into line with the current provisions of the WCWARP. Mr Regnault clarified this matter in ECan's right of reply.

MATTERS IN CONTENTION

36. The positions of some submitters changed by the time of the hearing. However, there was never any challenge to the proposed reduction in allocation limit and inclusion of tributaries in Table 3(xx).
37. The submitters who appeared at the hearing, support the proposed minimum flow of 0.4 cumecs at Kelly's Gully. This now includes Fish & Game, whose support was on the understanding that rationing conditions (low flow restrictions) will continue to apply to consents pursuant to WCWARP policy 23; Mr Regnault noted in his reply that rationing conditions (such as in the Hunter Downs consent) are applied to such consents.
38. That leaves the submissions from Lower Waitaki River Management Society and local resident Ms Janet Brown who respectively consider that more work is needed to determine an adequate minimum flow or that a higher minimum flow should apply at Kelly's Gully.
39. Ms Johnston stated at the hearing that the three irrigator submitters who had sought changes to the flow-sharing regime above the allocation limit had now withdrawn that claim.
40. I note that my role as independent commissioner is to assure myself on the evidence that the outcomes sought through WCWARP objectives and policies, and the basis on which submitters have reached their positions will actually be delivered by the plan change that I recommend to ECan.

SUBMITTERS' POINTS MADE AT HEARING

41. Ms Keri Johnston spoke on behalf of Māerewhenua Water Users Group who comprise all the irrigators of the Māerewhenua catchment. She noted the willingness of water users to implement the plan change and the work already under way to do so. This includes the renewal of consents to take 227L/sec by S & M Fenwick and Avonlea Dairies which are now part of the Māerewhenua District Water Resources Company water take from outside the Māerewhenua catchment.
42. That step has reduced remaining allocations within the Māerewhenua catchment to 400L/sec, which is the current WCWARP allocation limit. Ms Johnston noted that the next step – to reduce allocations to the proposed limit of 200L/sec – cannot proceed until the plan change is operative, otherwise there is a risk of opening up allocation to new applicants. All irrigation water permits will end up with annual volume limits which she expects will ensure efficient use of the allocated water.
43. In discussion at the hearing, Ms Johnston expressed the view that the non-derogation principle underpinning the Aoraki decision (*Aoraki Water Trust v Meridian Energy & others*²) meant that ECan would not be able to review existing consents to bring them into line with the current WCWARP minimum flow and allocation limits. Mr Regnault in his right of reply for ECan considered this was not the case, but he said that ECan preferred to adopt a collaboratively developed solution under Plan Change 2.
44. Hydrologist David Boraman gave evidence about the monitoring of minimum flows and how water rationing could be implemented. Despite the desirability of managing water takes based on residual flows in the lower reaches, he noted the impracticality of operating a flow recorder at SH83 and the difficulty in maintaining a water level-flow rating, given the frequent movement of the riverbed. The Kelly's Gully site where NIWA operates a flow recorder is a more stable bedrock site.
45. To maintain the current minimum flow at SH83 would require adding real-time rates of water take and natural losses to groundwater to the measured flow at Kelly's Gully. The approach suggested by Mr Boraman is to set a minimum flow at Kelly's Gully and implement four stepped cutbacks when flows fall below 600L/sec to 75%, 50%, 25% and 0% of allocations, with sharing of available water via a water user group.
46. Mr David Ruddenklau for Pukeraro Trust holds an irrigation consent to take 19L/sec from the river near Tokarahi. This allocation would be retained under the irrigators' agreement following the plan change. Mr Ruddenklau said he had not realised the implications of the original 2005 WCWARP provisions for the Māerewhenua, and welcomed the opportunity to resolve the over-allocation. He noted that consent holders with takes remaining after the plan change have an agreement to provide some financial compensation to those moving their takes out of the catchment, and this agreement is conditional upon the plan change being approved in its entirety.

² [2005] NZRMA 251; 11 ELRNZ 207 (Chisholm & Harrison JJ)

47. Mr Des Conlon spoke on behalf of the Des Conlon Trust. The trust operates a dairy farm with two consented water takes near the Earthquakes bridge whose allocations will be reduced under the Plan Change 2 proposal. Mr Conlon emphasized the importance of irrigation water supply reliability for his business. This has encouraged a community negotiated solution which has led to Plan Change 2 being supported by all the irrigation parties, including the Trust. He commended Keri Johnston and Matt Ross for their effort in helping develop a workable solution.
48. Mr Conlon had submitted that the flow-sharing threshold of 800L/sec in Table 3(xx)(c) should be reduced to 600L/sec (being the minimum flow of 400 plus the new reduced allocation limit of 200L/sec) to avoid the possibility of the vacated block of 200L/sec being re-allocated. He stated at the hearing that he understands that the change to the allocation limit proposed would not allow re-allocation; and in response to a question he stated he no longer wanted to pursue this point; I understand that to mean that submission point is withdrawn.
49. Mr Kelvin Weir presented the submission of the Māerewhenua District Water Resource Company (MDWRC), which irrigates 2000ha (some of which is in the Māerewhenua catchment) with water from the Waitaki river. MDWRC is the replacement source of water for irrigators relinquishing water allocations from the Māerewhenua as part of Plan Change 2. This includes the water permits held by Avonlea Dairies and part of the Fenwick's allocation. MDWRC supports the plan change as drafted.
50. Mr Matt Ross gave evidence on behalf of the Waitaki Independent Irrigators Inc (WIII). Mr Ross is a member of the Lower Waitaki South Coastal Zone Committee which has endorsed the plan change, and he is a past chairman of MDWRC which is helping to facilitate implementation of the plan change as described above.
51. WIII has 55 members representing an irrigated area of about 7000ha, and is a shareholder of Waitaki Irrigators Collective. Permit holders affected by Plan Change 2 are members of WIII. Mr Ross said that WIII supports the evidence of Mr Boraman, Ms Johnston and Ms Soal.
52. Mr Ross noted that despite extensive conversion of high rate border dyke takes to more efficient spray irrigation, the implementation of the WCWARP provisions on existing consents would have severe economic consequences. The expansion plans of MDWRC's supply from the Waitaki have provided a solution, allowing water allocation from the Māerewhenua to be reduced by 50%; the MDWRC scheme has been operative for the past irrigation season. Mr Ross said that ratification of a sound community-led solution is what is being sought by Plan Change 2.
53. Ms Elizabeth Soal is policy manager for the Waitaki Irrigators Collective (WIC) which comprises five irrigation schemes plus individual irrigators in the lower Waitaki catchment covering about 75000ha of irrigated land. MDWRC and WIII are members. Ms Soal referenced a study for WIC which showed that irrigation in the Māerewhenua

area contributes \$70m in revenue which would be only \$6.6m without irrigation. She pointed out the importance of high reliability of supply for delivering productivity.

54. Ms Soal considers the farmer-led proposal for the Māerewhenua catchment as an example of 'common pool resource users developing their own effective solution to a thorny allocation issue' and a further reason for adopting Plan Change 2 as drafted. This may provide a precedent for similar solutions to be agreed in other Waitaki tributaries. She also considers it important to have resolved water allocation issues so that the local zone committee can form a clear view of how best to set limits for water quality (a separate planning process currently underway).
55. Ms Bridget Pringle gave evidence on behalf of the Central South Island Fish and Game Council. The Māerewhenua River is an important brown trout and rainbow trout fishery and the sediment impacts of historic gold sluicing in the headwaters have receded making it increasingly popular with anglers. Ms Pringle considers the river probably regionally significant for trout fishing, and said it is popular with overseas anglers and guides. Under the current extraction regime, the river has sometimes dried up below abstraction points and near SH83, "about once every 5 years". The river is one of only three Waitaki tributaries where rainbow trout have been observed spawning.
56. Ms Pringle noted the difficulties in giving effect to the current rules for the Māerewhenua in the WCWARP, and commended the parties for seeking a solution which gives effect to the intent of the plan. Fish and Game now supports Plan Change 2. Fish and Game had initially been concerned that moving the minimum flow site upstream to Kelly's Gully could mean that full abstraction occurs right down to the 400L/sec minimum flow. Ms Pringle advised that Fish and Game is now satisfied there is enough direction in Policy 23 to achieve a 'whole of river environmental flow regime'.
57. In discussion with the parties at the hearing, I was also told that minimum flow conditions on consents now refer to rationing restrictions on the basis of rate of take, not weekly volume as previously used (this is important as it is the instantaneous rates of take which allow the retention of minimum flows).
58. I also sought clarification from Ms Pringle that Fish and Game is happy with a minimum flow of 400L/sec at Kelly's Gully when accounting for groundwater losses implies that a flow of 570 would be needed to achieve 400L/sec at SH83. She confirmed that 400L/sec at Kelly's Gully is acceptable to Fish and Game, citing Dr Ryder's evidence that both 400 and 570L/sec are poor for delivering instream habitat in that reach.
59. Fish and Game supports the inclusion of tributaries in the plan change. It was Ms Pringle's view that this had been the intention of the Waitaki Allocation Board, but the current WCWARP wording is unclear, and Plan Change 2 will correct this for the Māerewhenua catchment.

60. Ms Pringle also said that Fish and Game opposes submissions seeking to reduce the flow-sharing band of 800-2000L/sec., as they have effectively accepted a lower minimum flow at SH83 (i.e. 400L/sec at Kelly's Gully instead) in exchange for a lowered allocation limit. They consider that lowering the flow-sharing band will reduce the ecological benefits of the rest of Plan Change 2. I comment further on this below as the application of that flow-sharing is not particularly clear in the WCWARP.
61. In his right of reply on behalf of ECan, Mr Regnault addressed matters that I had raised during the hearing.

EVALUATION

Inclusion of tributaries within the flow and allocation regime

62. This change to Table 3(xx) is supported. As noted in Ms Fenemor's s42A report, this proposed amendment better achieves Objective 7.2.4 of the RPS, as the amendment delivers integrated catchment management, as also required under Part C of the NPSFM. It also better achieves Objectives 1 & 2 and Policies 3, 4 and 44 of the WCWARP which require the council to sustain the qualities of the environment of the Waitaki River catchment, and include a requirement to set environmental flow and allocation regimes for water bodies of the catchment (not just mainstem rivers).

Reduction in allocation

63. The allocation limit for taking of water in the Māerewhenua catchment is proposed to reduce from 400L/s to 200L/s.
64. Hydrological modelling (presented by Michael Law in his supplementary s42A report) shows that there will be improved reliability for the remaining users taking water from the Māerewhenua River compared to the current flow and allocation regime set out in the WCWARP. The increased reliability provides certainty to those who have invested in irrigation infrastructure and developed farming practices that depend on a reliable supply of irrigation water. The level of reliability provided for by Plan Change 2 is not significantly less than that currently experienced by existing consent holders, which is consistent with Policy 26(b) of the WCWARP.
65. The wider mitigation package developed by the water user group has benefits to the community. The information prepared by Simon Harris in his supplementary s42A report (economics) concludes that:
- *Plan Change 2 will produce lower economic outcomes than the Historical Consented situation, but higher than the Current Plan regime.*
 - *Assuming that the benefits of improved reliability outweigh the capital cost of the change for irrigation takes moving from the Māerewhenua to the Waitaki, there is expected to be a*

net positive economic outcome associated with Plan Change 2 relative to the Current Plan situation.

- *Those irrigators remaining on the Māerewhenua will experience no change or improvement in reliability relative to the Current Plan situation. Because there are no changes to their consent conditions, their situation cannot be worse, but because the transfer of consents to the Waitaki mainstem means there will be fewer irrigators taking from the Māerewhenua, there are likely to be fewer partial cutbacks as a result of the lower take.*
 - *For those irrigators moving to the mainstem, assuming that the benefits of improved reliability outweigh the capital cost of the change, the change is expected to produce a net positive economic outcome.*
66. The evidence supports the contention that river flows during the irrigation season will benefit from relinquishing consented water abstractions. Those benefits, relevant to matters listed in policies 4 and 44 of the WCWARP, include improvements to mauri and the health of the ecosystem, vegetation and habitat availability, fish passage, water quality, and reliability of supply. The plan change ensures that the relinquished allocations cannot be re-allocated to other users. I conclude that in terms of economic outcomes, Plan Change 2 will be an improvement over the current WCWARP provisions because reliability of supply is improved.
67. The reduction in the available allocation is consistent with Objective B2 of the NPSFM and better achieves Objective 7.2.1 and Policy 7.3.4(2) of the RPS by providing a mechanism to reduce over-allocation in the catchment. As identified in the s42A report, the reduced water allocation limit is also consistent with the policies set out in the Ngai Tahu Freshwater Policy Statement.
68. The proposed change to the allocation limit is supported.

Minimum flow at Kelly's Gully

69. There are two issues in contention here. Firstly, is there a valid case for moving the minimum flow compliance site from the current SH83 bridge at Duntroon back to the original flow site above all abstractions at Kelly's Bridge? Secondly, if that change is made, should the same minimum flow of 400 l/sec apply at Kelly's Bridge as at SH83?
70. As both Mr Law and Mr Boraman point out in their hydrology evidence, there are losses of river flow to groundwater in the underlying gravels in the river reach between Kelly's Bridge and SH83 (and probably beyond to the Waitaki confluence). Mr Law calculates those losses to be around 170-180 L/s when Kelly's Gully flows are less than 1,000 L/s. Based on Mr Law's estimates of flow losses, that means a minimum flow of 400 L/sec at SH83 corresponds approximately to a flow of 570 L/sec at Kelly's Bridge, when there are no water takes occurring between the two sites.

71. In ECan’s right of reply, Mr Clark (Senior Hydrologist) summarised the current knowledge of low flow hydrology statistics as Table 1 below. The Waitaki Allocation Board set minimum flows in the WCWARP at the 5-year 7-day low flow which has a 20% chance of occurrence in any year. Therefore Plan Change 2 proposes to set the minimum flow at Kelly’s Gully at just under that value, i.e. 400 rather than 427L/sec.

Table 1: Estimates of 7dMALF and the 5-year 7-day low flow in the Māerewhenua River.

	Kelly’s Gully (L/s)	SH83 (L/s)
7dMALF	570	391
5-year 7-day low flow	427	246

72. Mr Law in his primary evidence states that flows at SH83 under the current WCWARP flow and allocation regime are at or below 400L/s for approximately 20% of the time. The flows at SH83 under Plan Change 2 are at or below 400L/s for 13% of the time. I would note however that most current consents are operating under pre-WCWARP conditions; therefore these SH83 flows would be higher if the current WCWARP were implemented through reviews of conditions or in consent renewals.

73. Dr Ryder has used Mr Law’s data to determine the ecological impact of the change in flows in the river as a result of Plan Change 2. It is Dr Ryder’s view that the shallow morphology of the river below Kelly’s Gully limits its life supporting capacity during low flow. He considers that these effects are likely to be present in the lower river whether under the plan change flow scenario or the current WCWARP provisions.

74. Dr Ryder also considers that with the water allocation limit reduced from 400 to 200 L/sec under the plan change, there will likely be greater flow variability which may provide some benefit to aquatic biota. With 695L/sec currently allocated in the Māerewhenua catchment (Annex 1), and 200L/sec after implementation of the plan change, I agree that future low flows should be less severe than under the current WCWARP regime.

75. It is Dr Ryder’s opinion that after implementing the plan change, the river should no longer run dry in the reach between Kelly’s Gully and the confluence with the Waitaki River unless there were a prolonged drought. In relation to fish habitat and fish passage, he concludes that ‘a higher minimum flow would at best widen the wetted area of the bed, but do little to provide greater depth of water’. From my inspection of the river, I agree with that conclusion.

76. In relation to protecting trout spawning, which is specifically identified in WCWARP policy 44, Dr Ryder concludes that setting a minimum flow of 400L/s at Kelly's Gully should not result in additional detrimental effects on trout spawning. This is because water takes occur largely outside the trout spawning months of May to July for brown trout and July to mid-October for rainbow trout.
77. In his right of reply, Mr Regnault was of the view that adopting a minimum flow of 400L/sec at Kelly's Gully (as opposed to a higher minimum flow) does still provide for the values of the river that the WCWARP considers important. Having weighed the ecological benefits of a slightly higher minimum flow – which in Dr Ryder's judgement are minimal – against the loss of supply reliability for water users, I conclude that the effects of the groundwater losses can be ignored, as accepted by all the parties who appeared at the hearing.
78. In deliberating on this matter, I considered whether there were grounds, both hydrologically and legally, for increasing the minimum flow at Kelly's Gully from the proposed 400L/sec to the currently assessed 5-year 7-day low flow of 427L/sec presented in Mr Law's evidence. I have concluded not. From a hydrological perspective, I have already accepted that the ecological benefits of a slightly higher flow are minimal. From a legal point of view, it is evident in the original decision on the WCWARP (para 111) that environmental flow and level regimes have been set as the 5-year 7-day low flow, however there is no policy stating this, nor has any submitter specifically requested this change. Therefore, I recommend adopting the minimum flow of 400L/sec as proposed in Plan Change 2.

Flow Restrictions during low flows and Flow-sharing for B permits

79. There is a distinction in the WCWARP between flow restrictions during low flows (rationing) and flow-sharing at slightly higher flows. The WCWARP is not particularly clear on this distinction, and it could usefully be clarified in policy in a subsequent plan change, perhaps through an explanation of flow-sharing under Policies 3-5 and 8.
80. Table 3(xx)(b) sets the allocation limit discussed earlier, while 3(xx)(d) states that "Any water taken, diverted, dammed or used pursuant to the flow-sharing regime is in addition to the allocation limit". This implies that the allocation limit applies to permits in the top priority band ('A' permits) while allocations under 3(xx)(d) are of lower priority ('B' permits).
81. The implementation of Table 3(xx)(c) and (d) is governed by WCWARP Rule 2, the relevant parts of which state:
- (1) Except as provided in (2) and (3), no person shall take, use, dam or divert surface water or groundwater unless:

c. the take or diversion complies with a flow-sharing regime such that no more than half of the water above or between the thresholds in Table 3 can be taken or diverted;

82. Therefore, in effect up to 0.6 cumecs is available for allocation in a 'B' priority band, being half of the 2.0-0.8 cumec range in Table 3(xx)(c). Under Rule 2(c), those 'B' permits have their water takes restricted whenever Kelly's Gully flows are between 0.8 and 2.0 cumecs, as prescribed by 3(xx)(c)). So, for example, if the Kelly's Gully flow were 1.4 cumecs, I take this to mean that any permits in the 'B' priority band would between them be allowed to take no more than 0.3 cumecs (300L/sec) calculated from $(1.4-0.8)*50\%$.

83. Mr Law in his supplementary s42A report describes the available flow for abstraction following the plan change as:

"When flows at Kelly's Gully drop below 400 L/s, no abstraction will be allowed. When recorded flows are between 600 L/s and 400 L/s then the maximum abstraction will be the recorded flow minus 400 L/s"

84. Effectively this describes the envelope of available water whenever flows at Kelly's Gully are below 600L/sec – and this is 'A' class water as no 'B' class flow-sharing water is available at those low flows. As also noted by Mr Boraman, it also means that whenever flows at Kelly's Gully fall below 600L/s, consented allocations must be rationed in order to maintain the minimum flow of 400L/sec.

85. In her evidence, Ms Johnston noted that the intention of the Māerewhenua Water Users Group is to manage rationing of takes between 600 and 400L/sec through a water user group. I support that approach to rationing, provided a water user group can agree a process for sharing in advance of the cutbacks occurring; that process can be confirmed when consent conditions are set by ECan.

86. The reduction in abstraction during times of low flow is directed by Policy 23 of the WCWARP, which states:

By ensuring environmental flow and level regimes are complied with by requiring all consent holders to restrict their rate of taking or diverting shallow groundwater (upstream of Lake Benmore, in the Māerewhenua catchment or in the Hakataramea catchment), connected groundwater, or surface water when the amount of water available for taking or diverting is low, except where the water is used for essential domestic uses, essential animal drinking needs and for the processing and storage of perishable produce.

87. The effect of policy 23 is to reinforce the minimum flow and allocation limits in Table 3(xx) but not to prescribe any steps or practical approach to implementation via consent conditions.

88. Ms Fenemor referred to a s42A report³ presented at the Lower Waitaki consent hearings in 2008 which described the approach taken by consents planners when processing consents in the Waitaki catchment to ensure the flow in the river does not drop below the minimum flow as a result of water abstraction.
89. She described the effect of this approach, after this plan change is operative and relevant consents varied or renewed, as meaning that abstractors – and I take this to mean ‘A’ class permit holders - could take their full allocation when the flow in the river at Kelly’s Gully is at or above 600L/s (i.e. the 400L/sec minimum flow plus the 200L/sec maximum allocated). When flows are between 600L/s and 500L/s, consent holders could take 50% of their consented abstraction and they would be required to cease abstraction when the flow in the river is between 400L/s and 500L/s, or less. Mr Regnault supported this in his right of reply, citing the example of ramping down of water take in the Hunter Downs water permit.
90. Three irrigator submitters had sought changes to the rationing (flow-sharing) arrangements that would apply if the plan change were implemented as shown shaded below.

xx. Māerewhenua River and tributaries	<p>c. <u>Flow-sharing</u> between the thresholds of 0.8 0.6 and 2.0 1.8 m³/s</p> <p>e. Any water taken when the river is above \geq 1.8 m³/s is in addition to the <u>allocation limit</u> and <u>flow-sharing</u> regime</p>
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91. Ms Johnston advised that all three were no longer seeking those changes, however only the Des Conlon Trust formally advised of this at the hearing. Nevertheless, I need to be satisfied that there is sufficient guidance in the WCWARP to ensure the intent of the plan change is delivered.
92. The effect of reducing the ‘A’ band allocation limit from 0.4 to 0.2 cumecs is that there is a gap between Kelly’s Gully flows of 0.6 (i.e. the 0.4 minimum flow plus the allocation limit of 0.2 cumecs) and 0.8 cumecs before any ‘B’ band permits can start taking water. I understand the concern of the three submitters was that water could potentially be allocated to be taken within this gap, thereby undermining the intent of Plan Change 2 to resolve the over-allocation in the Māerewhenua. I do not accept that argument, as the allocation limit in Table 3(xx)(b) clearly caps the total ‘A’ band

³ Lower Waitaki Consent Hearings, S42A Report 3: Implementation of a flow and level regime for tributary waterbodies, dated August 2008.

http://ecan.govt.nz/publications/Consent%20Notifications/Report_03_final.pdf

allocations to 0.2 cumecs, and Table 3(xx)(d) only allows 'B' band consents to apply above a flow of 0.8 cumecs.

93. Ms Fenemor noted that retaining the existing flow-sharing bands will benefit the river through more natural flow variability; the length of time that flat lining occurs will be less and the reduction in allocation provides for a more naturalised flow recession during times of low flows. I accept those statements.
94. Given the Des Conlon Trust withdrew their submission on this point at the hearing, and I was told the other two submitters did not want to pursue that point in their submissions, I accept Ms Fenemor's recommendation not to change Rule 2 Table 3(xx) (c) and (e).
95. The existing policies contained in the WCWARP are therefore considered sufficient to address the concerns of the Fish and Game and the other submitters, as further increases to the minimum flow at Kelly's Gully (including the introduction of ramping flows) are not considered necessary to protect the river from downstream abstractions or to better achieve Objectives 1, 2 and 5 of the WCWARP.

Non-irrigation water takes

96. The submission from Cattle Creek Farm Ltd sought greater assurance that the plan change will not impact on the Tokarahi Water Supply Scheme. The submitter did not appear at the hearing, nor did the Waitaki District Council as holder of the scheme's consent CRC960857 lodge a submission. However Mr Regnault advised that WDC has a member on the zone committee who supported this plan change.
97. The Tokarahi Water Supply Scheme is a stock and domestic water supply servicing properties within a 40,000ha command area. Water is pumped from adjacent to the Māerewhenua River; I visited the pumphouse during the site visit. The current water permit does not have any minimum flow restrictions.
98. Policy 24 of the WCWARP provides for consent holders to take water for domestic and stock drinking-water uses when rivers are at or below minimum flow levels, provided the amount taken does not exceed 250 litres per person per day plus actual stock drinking requirements. Resource consent CRC960857 is due to expire in 2030 – or I assume may be reviewed before then to bring it into compliance with the WCWARP - at which time the consent holder would be required to limit the abstraction of water in accordance with Policy 24 of the WCWARP. The plan change does not change that situation.
99. It was stated at the hearing that Waitaki District Council was in negotiation to divest itself of the scheme to a user group; this would not change the applicability of the WCWARP to its consent.

100. As discussed above, Plan Change 2 will improve the reliability of supply for the remaining users taking water from the Māerewhenua catchment compared to the current flow and allocation regime. Therefore the plan change will actually benefit the Tokarahi Water Supply Scheme compared with the situation where the current WCWARP rules were applied. I note the same applies to consents held by the Tokarahi Golf Club and for Waitaki District Council's Duntroon water supply scheme.
101. Cattle Creek Farm Ltd also sought assurance that the domestic and stock water supply delivered by the Tokarahi scheme will not be affected by any future regulatory change. Any future regulatory changes in the Waitaki Catchment are not within the scope of Plan Change 2 and cannot be assessed as part of this plan change.

Other Submissions in Opposition

102. The Lower Waitaki River Management Society did not appear at the hearing. Their submission considers that Plan Change 2 does not make clear the implications on flows and minimum flows reaching SH83, and that the analyses of hydrology and economic effects appear deficient. Based on the evidence presented and discussed at the hearing, it is my view that the implications of the decision are well understood and the extent of evidence presented has been more than adequate.

DOES PLAN CHANGE 2 ACHIEVE THE PURPOSE AND PRINCIPLES (PART 2) OF THE RMA?

103. Part 2 (Sections 5-8) of the RMA sets out the purposes and principles of the Act. In terms of Section 5(2) the plan change will enable people and communities to provide for their continued well-being while rectifying the current situation of over-allocation of the water resources of the Māerewhenua catchment. In respect of Section 5 (2) (a)-(c) the life supporting capacity of the Māerewhenua River will be improved compared to the current situation, and particularly with the water rationing regime which continues under the new lower allocation limit.
104. Section 6 matters are relevant in terms of the preservation of the natural character of the Māerewhenua River and the protection of the River from inappropriate use and development, and the relationship of Maori with water and other taonga. The proposed improvements to the low flow regime will marginally improve the natural character of the river channels, although I observe that the natural character is affected far more by the riverbed weeds than by reduced low flows. In terms of the relationship of Maori with water, the kaitiaki rūnanga have submitted in support of the plan change.
105. Section 7 matters of relevance include the intrinsic values of ecosystems, the maintenance and enhancement of the quality of the environment, any finite characteristics of natural and physical resource and the protection of the habitats of

trout and salmon. The proposed flow and allocation regime adequately provide for the relevant values outlined in Section 7.

IS PLAN CHANGE 2 THE MOST APPROPRIATE WAY TO ACHIEVE THE PLAN OBJECTIVES UNDER S32 OF THE RMA?

- 106. Section 32 requires an evaluation of whether the plan objectives are the most appropriate way to achieve the purpose of the RMA. As there is no proposal in Plan Change 2 to change the objectives, that is not a relevant consideration here. Section 32 also requires an examination of whether the provisions of Plan Change 2 are the most appropriate way to achieve the objectives.
- 107. The section 32 analysis notes that the other options for addressing over-allocation in the Māerewhenua Catchment either do not consider adverse effects on the environment, or will not reduce over-allocation in a timely manner.
- 108. The plan change does not seek to change any of the current objectives nor policies of the WCWARP. Reducing the allocation limit resolves the issue of over-allocation of water in the catchment, and in my view more than compensates for the effects of moving the minimum flow site from SH83 to the Kelly’s Gully flow recording site.
- 109. Thus in my view, Plan Change 2 will better achieve the plan objectives than the existing provisions in the WCWARP for the Māerewhenua catchment.

DECISION

- 110. I recommend that WCWARP Plan Change 2 be adopted as shown below, as it resolves the current situation of over-allocation of water takes in the Māerewhenua catchment, and better achieves the objectives of the WCWARP.

<p>xx. Māerewhenua River and tributaries</p>	<ul style="list-style-type: none"> a. <u>A minimum flow</u> of 0.4 m³/s at State Highway 83 Kelly’s Gully. b. An <u>allocation limit</u> of 0.4m³/s 0.2m³/s. c. <u>Flow-sharing</u> between the thresholds of 0.8 and 2.0 m³/s d. Any water taken, diverted, dammed or used pursuant to the <u>flow-sharing</u> regime is in addition
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	<p>to the <u>allocation limit</u></p> <p>e. Any water taken when the river is above 2 m³/s is in addition to the <u>allocation limit</u> and <u>flow-sharing</u> regime.</p>
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111. The proposed plan change is recommended for approval as proposed. This means that all submissions, some as amended in evidence as presented at the hearing, apart from those of Lower Waitaki River Management Society and Ms Janet Brown are accepted. Reasons have been given above and are summarised in Annex 2.

112. I would like to record my appreciation for the constructive way in which the parties appearing at the hearing worked together to agree a solution to the over-allocation in the Māerewhenua catchment. As they themselves noted, this form of collaborative resolution of a water management problem should be supported.



Andrew Fenemor
Commissioner

24 August 2014

ANNEX 1: SUMMARY OF WATER PERMITS (CONSENTS) BEFORE AND AFTER PLAN CHANGE

Waitaki Catchment Water Allocations (Maerewhenua River - A Permits)

Consent Number	Activity	Consent Holder	Consent Status	Max Rate (L/s)	Included in allocation	Running Total	Comments	Remaining on the river?	Rate After Plan Change (L/s)	Main stem, tributary or connected groundwater	Method of Abstraction	Joint comments
A Permits												
CRC011714	Surface Water Take	Michael Frederick Moynihan	Issued - Active	57	57	57		Yes	57	main stem	Pump	
CRC021504.1	Surface Water Take	Des Conlan Trust	Issued - Active	110	0	57	Not included in instantaneous allocation. Combined rate with CRC992096.2 (which is included).	Yes, but B permit	0	main stem	Diversion	The minimum flows are above the A block minimum flow and are therefore not included in the primary allocation. The consented minimum flows are lower than the B Block minimum flows for part of the year. Upon review or renewal of this consent, the minimum flow will be required to comply with the flow sharing minimum flows.
CRC960857	Groundwater Take	Waitaki District Council	Issued - Active	20	20	77		Yes	20	main stem	Diversion	Tokarahi community supply take - year round
CRC981495	Groundwater Take	Ross William Mckenzie	Issued - Active	15	15	92	Treated as direct surface water take.	Yes	15	main stem	pump	Fenwicks have now bought this farm.
CRC982130	Groundwater Take	Tokarahi Golf Club Incorporated	Issued - Active	12	12	104	in Ecan database as 3.7L/s. Assume that this is considered to be hydraulically connected portion, but under Policy 6, entire 12L/s is to be included in the allocation.	Yes	12	connected groundwater	pump	
CRC991000.1	Surface Water Take	Pukeraro Trust	Issued - Active	19	19	123		Yes	19	main stem	pump	
CRC992096.2	Surface Water Take	Des Conlan Trust	Issued - Active	230	0	123	Limited with CRC021504.1 to combined of 140L/s despite 230L/s allowable but see note below for CRC991295.4	Yes	30	main stem	diversion, with CRC021504.1	To be amended to allow a maximum rate of 30L/s.
CRC142921	Surface Water Take	Avonlea Dairies Limited	Issued - Inactive	90	60	183	Combined rate between CRC992096 and CRC991295.4 shall not exceed 290L/s. Include 60L/s of this consent in allocation and the diversion associated with CRC992096.2 Also see note below for CRC991295.4.	No	0	main stem	pump	To be transferred to MDWRC
CRC142987	Surface Water Take	Mr & Mrs S R & M E Fenwick	Issued - Inactive	76	76	259		No	0	tributary	pump	To be transferred to MDWRC
CRC991295.4	Surface Water Diversion	Maerewhenua Community Irrigation	Issued - s124 Continuance	230	230	489		No	0	main stem	diversion	Not remaining. Current diversion is being moved (see note below).
CRC991295.4	Surface Water Take	Maerewhenua Community Irrigation	Issued - s124 Continuance	200	0	489	Capped at 290L/s between this consent, CRC992096.2 and CRC102062 (which has been replaced by CRC142921). 60L/s allocated to CRC142921	Yes	42	main stem	pump	This will be renumbered and issued in the name of S & M Fenwick for a maximum rate of 42L/s and transferred to a gallery located adjacent to the mainstem
CRC142915	Surface water Take	Mr & Mrs S R & M E Fenwick	Issued, active	67	67	556	Must include the maximum instantaneous rate, however note that the average rate is 51.4L/s. Combined average rate between CRC142383 and CRC142416 is 67L/s	No	0	tributary	pump	To be transferred to MDWRC
CRC142383	Surface Water Take	Avonlea Dairies Limited	Issued, active	67	67	623	Must include the maximum instantaneous rate, however note that the average rate is 7.3L/s	No	0	tributary	pump	To be transferred to MDWRC
CRC142416	Surface Water Take	Avonlea Dairies Limited	Issued, active	67	67	690	Must include the maximum instantaneous rate, however note that the average rate is 7.3L/s	No	0	tributary	pump	To be transferred to MDWRC
CRC982133	Groundwater Take	Waitaki District Council	Issued, active	5	5	695		Yes	5	connected groundwater	pump	
					total catchment allocation	695			200			Taking into consideration reductions described above, the new allocation of water is calculated to be 200L/s
					mainstem allocation	418						All allocation remaining is on the mainstem
					Tributary allocation	277						
							remaining in full after PC2					
							remaining in part					

ANNEX 2: SUMMARY OF DECISIONS ON SUBMISSIONS

Submission Point	Sub ID	Company or Attn. to	Name	Address	Support/ Oppose	Submitter Reasons	Decision Sought	Commissioner Recommendation
PC2WCWARP-15	51519		Mr and Mrs S & M Fenwick	341 Livingston Duntroon Road 10 KRD Oamaru 9494	Support	<p>Support inclusion of tributaries, as it means the catchment is managed as a whole. As a consent holder we have been part of the process to find a solution to the over-allocation of water. Support transfer of water to mainstem, at significant cost, because of benefits for our business, having access to the Waitaki River and improvements to the Māerewhenua river catchment.</p> <p>Support changing minimum flow to Kelly's Gully and reduction in allocation limit.</p> <p>Request amendments to the flow sharing regime, to reflect the reduction in allocation limit, so that band is 0.6m³/s to 1.8m³/s.</p>	<p>Support plan change, and request these amendments:</p> <p>Rule 2, Table 3, Row xx Line (c) to read: Flow sharing between the thresholds of 0.6 and 1.8m³/s</p> <p>Rule 2, Table 3, Row xx, Line (e) to read: Any water taken when the river is above 1.8 m³/s is in addition to the allocation limit and flow-sharing regime.</p>	<p>Accept in part, being the notified amendments.</p> <p>Reject request to reduce the flow sharing band by 0.2 cumecs as it is unnecessary to prevent re-allocation and would diminish the instream benefits of the reduced allocation limit.</p>
PC2WCWARP-9	51462	Cattle Creek Farm Ltd	Mr David Milne	Cattle Creek RD Kurow 9498	Oppose	<p>Seeks assurance that the plan change will not impact on the Tokorahi Water Supply Scheme.</p>	<p>Assurance that the Tokorahi Water Supply Scheme will not be affected by this plan change or future regulatory change</p>	<p>Accept, while noting that the water scheme would through either review of consent or renewal of consent have had to comply with more significant water restrictions in due course under the</p>

Submission Point	Sub ID	Company or Attn. to	Name	Address	Support/ Oppose	Submitter Reasons	Decision Sought	Commissioner Recommendation
								WCWARP than will apply after Plan Change 2.
PC2WCWARP-7	51461		Mr David Ruddenklau	61 Turnbills Road RD 141 Oamaru 9491	Support	<p>Support proposal to amend minimum flow because measurement at SH83 bridge is impractical because of pebbly nature of bed. Crack willow and gorse in mid sections consume summer flow, so measuring below this is not fair to other water users.</p> <p>Support relocation of flow measurement to Kelly's Gully.</p> <p>Support reduction in allocation to recognise major gesture by water permit holders in relocating some of the takes, and to prevent river being over-allocated again in the future.</p>	That the proposed changes to Rule 2 (a) and (b) be adopted	Accept, for reasons stated in the decision
PC2WCWARP-18	51524	The Des Conlan Trust	Mr Des Conlan	115 McDonald Road 7HRD Oamaru 9493	Support	<p>Support all 3 amendments.</p> <p>Minimum flow should be taken and measured at Kelly's Gully, as this is the most reliable and practical point at which the minimum flow should be taken. Recording minimum flow at SH83 would be less reliable, due to the nature of the riverbed upstream from the highway. This area has shown variable losses when the river has low flows. A minimum flow at SH83 would make our irrigation consents very difficult to operate economically. The measurement site at Kelly's Gully has</p>	<p>Support the amendment to measure minimum flow at Kelly's Gully.</p> <p>Support reduction in allocation limit.</p>	Accept, for reasons stated in the decision

Submission Point	Sub ID	Company or Attn. to	Name	Address	Support/ Oppose	Submitter Reasons	Decision Sought	Commissioner Recommendation
						<p>operated successfully for many years.</p> <p>Support reduction of allocation limit to 0.2 m³/2. Members of River Water Users Group have transferred allocation from river to Waitaki River at considerable expense.</p> <p>Flow sharing threshold should be reduced to avoid any possibility of flow between 0.6m/s and 0.8m³/s being allocated in future (this latter submission point withdrawn verbally at the hearing).</p>		
PC2WCWARP-17	51521	Lower Waitaki River Management Soc Inc	Mr Ian McIlraith	RD6H Oamaru 9493	Oppose	<p>Implications on flows and on minimum flow reaching SH83 have not been made clear. Do not agree with statement that flows will be little different under proposal.</p> <p>Society has not been consulted.</p> <p>Hydrological and economic analysis appear deficient under RMA.</p>	Do not proceed with plan change until matters made clear.	Reject, as the commissioner considers sufficient information has been provided to satisfy requirements of the RMA.
PC2WCWARP-14	51518	Māerewhenua District Water Resource Company	Mr Kelvin Weir	PO Box 159 Oamaru 9444	Support	<p>Agree the flow measuring point should be Kelly's Gully because the physical characteristics of the bed at SH83, and loss to ground, make measurement difficult. Confined nature of river at Kelly's Gully makes measurement more accurate. Having a measuring point at the bridge creates uncertainty, as it is difficult to know what the flow needs to be upstream in order to maintain a minimum flow at</p>	Support minimum flow being measured at Kelly's Gully, and support reduction in allocation limit.	Accept, for reasons stated in the decision

Submission Point	Sub ID	Company or Attn. to	Name	Address	Support/ Oppose	Submitter Reasons	Decision Sought	Commissioner Recommendation
						<p>SH83. The measuring point has always been at Kelly's Gully and this change will simply reflect the status quo.</p> <p>Reduction in allocation limit will ensure that water returned to the river cannot be abstracted in the future.</p>		
PC2WCWARP-5	51457	Senior Policy Advisor Federated Farmers Combined Canterbury Branch	Dr Lionel Hume	PO Box 414 Ashburton 7740 Canterbury	Support	Addresses over-allocation in catchment. Example of collaborative endeavour consistent with Canterbury Water Management Strategy.	Approve Plan Change 2 in its entirety	Accept, for reasons stated in the decision
PC2WCWARP-13	51517	Waitaki Independent Irrigators Incorporated Society	Mr Matthew Ross	PO Box 159 Oamaru 9444		<p>Agree the flow measuring point should be at Kelly's Gully because of practical difficulties with bed at SH83, and loss of water to ground. Confined nature of river at Kelly's Gully makes measurement more accurate. Measuring at bridge creates uncertainty, as it is difficult to know what the flow needs to be upstream, in order to maintain a minimum flow at SH83. Measuring point has always been at Kelly's Gully and this change simply reflects the status quo.</p> <p>Support reduction in allocation limit to prevent water being abstracted in the future.</p>	Support measurement of minimum flow at Kelly's Gully, and reduction in allocation limit	Accept, for reasons stated in the decision
PC2WCWARP	51460	Loch Lomand	Mr Michael	10 K.R.D	Support	Plan change future proofs health of river	Approve plan change	Accept, for

Submission Point	Sub ID	Company or Attn. to	Name	Address	Support/ Oppose	Submitter Reasons	Decision Sought	Commissioner Recommendation
-6		Farming Co	Moynihan	Oamaru 9492		by lowering total irrigation take by over 50%. Leaves more water in river at times of low flow.		reasons stated in the decision
PC2WCWARP-20	51526		Mr Ross McKenzie	RD 10K Oamaru 9394	Support	No reasons cited	Not stated	Accept, for reasons stated in the decision
PC2WCWARP-19	51525	Central South Island Fish and Game Council	Ms Bridget Pringle	PO Box 150 Temuka 7948	Oppose	Support inclusion of tributaries in environmental flow regime. Support reduction in allocation limit. Oppose minimum flow at Kelly's Gully, as minimum flow should apply to whole of river. Measurement at Kelly's Gully means that river can be induced to extreme low flows, and will not provide connectedness. Fish passage is not adequately considered, fish habitat in the lower reaches is potentially limited, and natural and recreational values are not recognised. These latter points withdrawn at hearing, withg Fish & Game supporting the plan change subject to assurances about implementation of consents.	Retain proposed provisions on tributaries and reduced allocation limit. Measure flow at Kelly's Gully, however adjust the minimum flow, to account for downstream abstraction, i.e. a mechanism that enables ramping down of abstraction, with abstraction to cease at 400l/s. This latter point withdrawn at hearing.	Accept revised position as presented at hearing, for reasons stated in the decision
PC2WCWARP-11	51463	Te Rūnanga o Ngai Tahu & Te Rūnanga o Arowhenua & Te Rūnanga o Waiho & Te	Ms Cathy Begley	PO Box 13-046 Christchurch 8042	Support	Māerewhenua river catchment is of immense cultural significance to Ngai Tahu, as evidenced by the presence of rock art. Catchment is currently over allocated, and the solution is effectively a water swap; where water for irrigation is taken from	Plan Change 2 be adopted in its current form	Accept, for reasons stated in the decision

Submission Point	Sub ID	Company or Attn. to	Name	Address	Support/ Oppose	Submitter Reasons	Decision Sought	Commissioner Recommendation
		Rūnanga o Moeraki				<p>Waitaki mainstem rather than Māerewhenua river.</p> <p>Support is conditional on allocation limit being reduced to 200l/s, and no additional water being available for allocation.</p>		
PC2WCWARP-12	51464	Waitaki Irrigators Collective	Ms Elizabeth Soal	PO Box 159 Oamaru 9444	Support	<p>Support measuring minimum flow at Kelly's Gully, as the physical characteristics of the bed at SH83, and loss of water to ground, make measurement difficult. The confined nature of the channel at Kelly's Gully makes measurement more accurate. Having a measuring point at the bridge creates uncertainty, as it is difficult to know what the flow needs to be upstream to maintain a minimum flow at SH83. The measuring point has always been at Kelly's Gully, and this change simply reflects the status quo.</p> <p>Reducing the allocation limit recognises that the return of water to the river, through the community led solution, cannot be abstracted in the future.</p>	Support the plan change to ensure that the planning framework supports the community led initiative	Accept, for reasons stated in the decision
PC2WCWARP-3	51458		Ms Janet Brown	5 K R D Oamaru 9494	Oppose	<p>Oppose minimum flow of 0.4 cumecs at Kelly's Gully. If measurement point is moved, minimum flow at Kelly's Gully should be at least 0.65 cumecs. Measuring flow above abstraction points leaves river too vulnerable to excessive low flows. Don't want to see continued degradation of world-renowned stream.</p>	Retain measurement at SH83 bridge, or, move measurement to Kelly's Gully and increase minimum flow to account for downstream abstraction and	Accept in part, noting submitter's support for reduction in allocation limit and inclusion of tributaries.

Submission Point	Sub ID	Company or Attn. to	Name	Address	Support/ Oppose	Submitter Reasons	Decision Sought	Commissioner Recommendation
						Supports inclusion of tributaries and reduction in allocation limit.	natural losses.	Reject request to increase minimum flow or move measuring point, as hydrological assessments show that excessive low flows will not result from the reduced abstraction regime.
PC2WCWARP-16	51520	Avonlea Dairies Ltd	N & D McKenzie & S & M Fenwick	341 Livingston Duntroon Road 10 KRD Oamaru 9494	Support	<p>Support inclusion of tributaries, as it means the catchment will be managed as a whole.</p> <p>We helped develop the solution to over-allocation. We are retaining a small portion from Māerewhenua and transferring the rest, at significant cost, because of benefits for our business and for the river.</p> <p>Support changing minimum flow to Kelly's Gully and reduction in allocation limit.</p> <p>Seek changes to flow sharing regime, to reflect reduction in allocation limit, so that the band is 0.6m³/2 to 1.8m³/s.</p>	<p>Support plan change as notified, and</p> <p>Change Rule 2, Table 3, Row xx, line (c) to read: Flow sharing between the thresholds of 0.6 and 1.8 m³/s.</p> <p>Change Rule 2, Table 3, Row xx, line (e) to read: Any water taken when the river is above 1.8 m³/s is in addition to the allocation limit and flow-sharing regime.</p>	<p>Accept in part, being the notified amendments.</p> <p>Reject request to reduce the flow sharing band by 0.2 cumecs as it is unnecessary to prevent re-allocation and would diminish the instream benefits of the reduced allocation limit.</p>

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