

Sharrie Campbell

From: Catherine McCallum <catherine.mccallum@tp.co.nz>
Sent: Friday, 24 October 2014 4:11 p.m.
To: Mailroom Mailbox
Cc: Tom Evatt; Pip Newland
Subject: Submission on Variation 2 of the Land & Water Regional Plan
Attachments: CJM-2020823-48-6-1 Submission on Variation 2 - Valetta Irrigation Limited.pdf

Categories: Orange Category

EC305318

Dear Sir/Madam

Please see the **attached** submission regarding Variation 2 of the Land & Water Regional Plan for Valetta Irrigation Limited.

Can you please confirm receipt of the submission. If you have any questions please do not hesitate to contact us.

Kind regards

Catherine McCallum | Solicitor



T +64 3 374 9999 DDI +64 3 9637717
F +64 3 374 6888
E catherine.mccallum@tp.co.nz

Tavendale and Partners Limited
Suite 2, 21 Leslie Hills Drive, Riccarton
PO Box 442
Christchurch 8140, New Zealand
www.tp.co.nz

This email or attachments may contain confidential or legally privileged information intended for the sole use of the addressee(s). Any use, redistribution, disclosure, or reproduction of this message, except as intended, is prohibited. If you received this email in error, please notify the sender and remove all copies of the message, including any attachments. Any views or opinions expressed in this email (unless otherwise stated) may not represent those of Tavendale and Partners Limited.

**SUBMISSION ON VARIATION 2 TO THE PROPOSED CANTERBURY LAND AND WATER
REGIONAL PLAN**

Clause 6 First Schedule, Resource Management Act 1991

TO: Environment Canterbury
Freepost 1201
Variation 2 to the proposed Canterbury Land and Water Regional Plan

By email: mailroom@ecan.govt.nz

Name of Submitter: Valetta Irrigation Limited (**VIL**)

1 This submission is on:

Variation 2 to the Proposed Canterbury Land and Water Regional Plan (**Plan**).

2 The specific provisions of the Plan that this submission relates to are:

- 2.1 Policy 13.4.9
- 2.2 Policy 13.4.12
- 2.3 Policy 13.4.13
- 2.4 Policy 13.4.16
- 2.5 Rule 13.5.17
- 2.6 Rule 13.5.22
- 2.7 Rule 13.5.30
- 2.8 Rule 13.5.31
- 2.9 Rule 13.5.32
- 2.10 Rule 13.5.33
- 2.11 Rule 13.5.34
- 2.12 Schedule 7
- 2.13 Schedule 10
- 2.14 Schedule 13
- 2.15 Tables 13(a), 13(f), 13(g), 13(h), 13(i), 13(j) and 13(k)

Introduction

- 3** VIL takes water from the Rangitata Diversion Race and distributes this water to its shareholder members for irrigation. VIL has recently upgraded its distribution system from open races to in-ground pipe including more accurate measurement of water use using telemetry. The upgrade has enabled VIL to deliver water to the farm gate under pressure including predominantly for spray irrigation and save water previously lost through leakage

and evaporation. The upgrade has resulted in greater efficiencies in the amount of water available for irrigation and the delivery of this water under pressure.

- 4 There are now greater opportunities to better use water for irrigation including using surplus surface water during low/mid demand periods in conjunction with groundwater during high/peak demand period. Surplus water is water which is not required by a particular shareholder or shareholders on any given day during the irrigation season and is available for use for irrigation by other shareholders or irrigators.
- 5 Surplus water is inherently unreliable, the availability of which depends on the demand for water on any given day and restrictions on surface water due to low flows. Shareholders who take and use surplus water may use this surplus water in conjunction with groundwater during high/peak demand periods or restrictions. Groundwater is more reliable and is available to shareholders when surplus water is unavailable. Shareholders using surface water in conjunction with groundwater may use more or less groundwater depending on the season, operational requirements and the availability of surface water.
- 6 Groundwater is essentially 'stored' or remains in-ground until it is required depending on the amount of surface water available.
- 7 Pressured surface water is generally more economical to take than pumping and pressurising groundwater (in particular from deep aquifers).
- 8 Shareholders wishing to use surplus surface water don't currently know how much groundwater they might need from season to season which will depend on the availability and reliability of surplus water. VIL have initiated a 'pilot' scheme so as to better understand the amount of surplus surface water which might be available throughout the season and the reliability of this water.
- 9 VIL have previously sought assurances from Environment Canterbury that shareholders participating in the scheme would not be prejudiced by using surplus surface water as an alternative to or in conjunction with groundwater – i.e. that if they didn't actually take and use the groundwater available to them they wouldn't lose some or all of the groundwater allocated.
- 10 VIL wish to protect the viability of this scheme by ensuring that groundwater continues to be available to supplement the use of surface water including achieving a reasonable level of reliability and to satisfy their reasonable irrigation requirements when surface water is not available.

- 11 VIL wish to promote the use of surface water as a primary source of water for irrigation, using groundwater as a supplementary source of water for groundwater users connected to the distribution network.
- 12 VIL wish to reserve the ability to:
- 12.1 Transfer groundwater permits to Irrigation Schemes; and
- 12.2 Transfer groundwater permits (whether in part or whole) from existing bores to new bores within the same groundwater allocation zone in particular to properties that are unable to take surface water.
- 13 The proposed policies and rules limiting the volume and rate of abstraction on replacement water based on Method 1 in Schedule 10 limit the ability to hold an allocation of groundwater to use (or not use) in conjunction with surface water whether for storage or otherwise, notwithstanding the groundwater remains in the environment in the meantime (albeit unable to be allocated elsewhere).
- 14 VIL wish to protect the investment made by VIL and its shareholders in the upgrade and the investment made by its shareholders in their individual farming operations by ensuring the economic viability of the range of farming activities carried out within the scheme (and generally) having regard to reasonable environmental bottom lines (nutrient limits) and measures for achieving bottom lines.

Water quality provisions

- 15 **This submission supports (in part) the provisions of the Plan that are proposed to manage water quality in the Lower Hinds Plains Area.**
- 16 **This submission opposes (in part) the provisions of the Plan that are proposed to manage water quality in the Lower Hinds Plains Area.**
- 17 **The reasons for this opposition include, but are not limited to, the following:**
- 17.1 VIL is not opposed to and recognises the need for limits to improve and protect water quality in the Hinds catchment. VIL does oppose the setting of limits that are not accurate or robust, or are based on incorrect assumptions or faulty science.
- 17.2 VIL is disappointed at the unbalanced nature of the preamble to the Policies and Rules in Section 13. The proposed text focuses on the cultural, ecological and recreational cost of agriculture to the catchment and fails to recognise the benefits associated with the productivity of the agricultural sector and the contributions that

farmers have made to manage the environmental health of the catchment. The Resource Management Act 1991 (**RMA**) is founded on sustainable management and recognition must be had of the importance of maintaining the productivity of the catchment while achieving realistic environmental outcomes.

Outcomes

- 17.3 The freshwater outcomes set in Table 13(a) are inappropriate for the Lower Hinds Plains sub-catchment. This has led to targets and limits being set for the catchment that are potentially unachievable by 2035 without significant economic cost to the farming community.
- 17.4 Table 13(a) categorises a number of drains within the sub-catchment within the 'spring-fed plains' category, applying global water quality outcomes to them. This does not recognise their highly modified nature, or the fact that some drains may not merit such a level of protection. There is insufficient knowledge about the attributes of these drains to warrant imposing stringent and unachievable outcomes.¹
- 17.5 The cost/benefit analysis carried out by the section 32 report incorrectly concludes there will be a low overall economic cost incurred from setting the outcomes at their notified level.² This is based on the assumption that the outcomes impose a medium cost to farmers, which is mitigated by the approximately 20 year time period over which the outcomes are to be achieved.
- 17.6 The analysis is skewed by the fact that nearly all of the cost of achieving the outcomes is carried by dairy and dairy support farmers. In fact, the cost to dairy and dairy support farmers is significant.³ Although dairy is the most productive land use in the catchment, it should not have to carry the entire cost of mitigation measures. If productivity of dairy is driven too low, it will have a significant effect on the social and economic wellbeing of the Hinds Plains farming community.
- 17.7 The section 32 report relies on uncertain future dairy productivity and technological developments to help carry and mitigate the cost to the community.⁴ Significant emphasis is also placed on the role of managed aquifer recharge (**MAR**), however there is no 'Plan B' in the event that MAR is unsuccessful, or more successful than anticipated. This degree of uncertainty has resulted in a cost/benefit analysis that

¹ Recognised in part by the appointment of the Hinds Drains Working Party to investigate and set minimum flows for drains in the sub-catchment

² Section 32 report, paragraph 7.2.3, page 64

³ Section 32 report, Table 11-2, NPAT under V2 measures from current profitability drops 43.9% for irrigated dairy support

⁴ Section 32 report, 7.2.1, page 61

underestimates the cost of compliance to the community and chooses an unsustainable management option for inclusion in the Plan.

- 17.8 VIL is of the view that it is appropriate, and the Canterbury Regional Council has the scope to set realistic, achievable outcomes in Table 13(a),⁵ to be achieved over a longer time frame.⁶ This approach is particularly appropriate given the progressive implementation programme (**Programme**) notified by the Regional Council pursuant to the NPSFM.⁷ The Programme must be completed by 2025, which will allow outcomes to be set based on more robust information.
- 17.9 VIL asks that Table 13(a) outcomes be set to achieve lower, more realistic environmental goals over a longer time period. The outcomes can then be revisited once the Programme is concluded for the Hinds catchment.

Targets/Limits

- 17.10 Even if the outcomes set in Table 13(a) are accepted as being appropriate, the targets specified to reach those outcomes need to be accurate and robust to avoid significant and unnecessary cost to the farming community. 3400 tonnes of Nitrogen per year⁸ purports to be the nitrogen load necessary to achieve the surface and groundwater targets specified in Tables 13(j) and 13(k) and as a result, achieve the outcomes set in Table 13(a).
- 17.11 The targets specified for Spring-fed Plains Rivers in Table 13(j) are a *national bottom line*⁹ for river nitrate toxicity. VIL has concerns about adoption of national bottom line figures by the Plan without careful investigation. More particularly:
- (a) The attribute tables in the NPSFM and the *national bottom lines* specified are intended to be used as part of a robust and prescriptive objective setting exercise.¹⁰ In particular, compliance with the National Objectives Framework involves identifying all freshwater bodies in a catchment, then identifying distinct values for each of them.
 - (b) The Lower Hinds sub-catchment includes drains that may not merit the degree of protection specified for *rivers* in the NPSFM. It appears these have not been accounted for when setting targets for the sub-catchment.

⁵ More detail to be provided at hearing

⁶ More detail to be provided at hearing

⁷ Notified 13 September 2014

⁸ Table 13(g)

⁹ National Policy Statement-Freshwater Management (NPSFM) 2014, Appendix 2

¹⁰ NPSFM, Objective CA1 and Policies CA1-CA4

- (c) The variations in suitable targets for water bodies in the catchment should be addressed in the Programme. The Regional Council is not obliged to give effect in the Plan to national bottom lines until the programme has been completed for the Hinds catchment.
- (d) VIL is of the view that until the Hinds catchment has been reviewed as part of the Programme, it is inappropriate to adopt part, but not all of the National Objectives Framework. To do so risks imposing significant cost on the community without adequate investigation.
- 17.12 VIL is of the view the target set for *Hill-fed Lower rivers* in Table 13(j) is unachievable. This is due to the fact the Hinds River is underground for significant stretches, as a result, VIL suggests the concentration of N for the Hinds River must equal that of groundwater i.e. 6.9mg/L.
- 17.13 In any event, VIL asks that until the programme investigations are concluded, targets and limits for the Lower Hinds sub-catchment in particular, in Tables 13(j) and 13(k) should be set at a level that assumes 30,000ha additional irrigation at current operating practice.¹¹
- 17.14 Table 13(k) specifies a Nitrate-N target for groundwater in the catchment of an annual average concentration of 6.9 mg/L. It does not distinguish between shallow and deep groundwater. VIL notes the average nitrate concentration in groundwater sampling wells in the catchment is 5.6mg/L¹² and asks that the Nitrate-N figure in Table 13(k) be specified as a *limit* rather than a *target* to accord with definitions in the NPSFM.¹³
- 17.15 The nitrate load limit in Table 13(g) is intended to determine the maximum cumulative amount of nitrate that may be lost from the sub-catchment, before the targets in Table 13(j) are breached.¹⁴ It follows that the method by which the load limit is calculated must be accurate and robust, to avoid imposing unnecessary cost on the community by way of load limit set too low.

¹¹ A figure will be provided at the hearing

¹² Page 19, Ashburton ZIP Addendum, March 2014

¹³ *Target* being a limit which must be met at a defined time in the future, which meaning only applies in the context of over-allocation.

¹⁴ Section 32 Report, section 7.3.1, page 71

17.16 VIL has concerns about the accuracy of the target of 3400tN/year specified in Table 13(g) for the Lower Hinds Plains Area and the lack of clarity around how it was reached. In particular:

- (a) The target was reached by virtue of a model. VIL acknowledges that models are important tools in catchment management scenarios. However, it notes that not all models are suited to all catchments.
- (b) Assessing nitrogen loads for the Hinds catchment is a *new science* and the report relied on to produce the target is a *good start* from what was *pretty much a zero base*.¹⁵ This suggests that rather than an accurate and robust figure, the target is a 'best guess' at what the nitrogen load limit should be.
- (c) There is no certainty around what even the current nitrogen load amounts to, as the protocols for OVERSEER are not standardised. There are three general approaches to using OVERSEER, each of which can result in different N figures.
- (d) Further, the section 32 report contains little to no information about what inputs to the model were used to reach the load limit. This lack of detail is out of scale to the significance of the effects on the farming community of setting a nitrogen load limit.¹⁶
- (e) The drains in the Lower Hinds Plains Area are an example of the difficulties in producing an accurate sub-catchment load limit. The limit is intended to meet targets specified in Table 13(j), but the sub-catchment includes a significant number of drains that appear to have been globally treated as *rivers* for the purposes of the NPSFM and RMA.¹⁷ This may mean that drains that do not merit protection to the extent specified in Table 13(j) are skewing the model, resulting in an incorrectly low nitrogen load limit.
- (f) In addition, the section 32 report appears to rely on results from one groundwater monitoring well as sufficient reason to re-categorise the nutrient allocation zone in the Carew area (currently green) as one in which water quality outcomes are not met.¹⁸ This seems a significant leap given the consequences and suggests the inputs to the model could be based on some significant and potentially wrong assumptions.

¹⁵ Ashburton ZIP Addendum, Commentary on Recommendation 6.1, page 21

¹⁶ Section 32(1)(c) of the RMA

¹⁷ Table 13(e) of the Plan, in particular the footnote which states *the drains referred to in this column [headed spring-fed plains rivers] are considered to be modified watercourses for the purposes of the RMA...*

¹⁸ Section 32 report, section 3.5.1, page 24

- (g) Given the significant cost to the farming community if it is wrong, VIL asks that no target or limit be set for the catchment, or, that a conservatively high nitrogen load target/limit be set in Table 13(g), to be achieved over a longer timeframe.¹⁹ This figure will apply until more robust modelling can be carried out and a more accurate figure specified.

17.17 The Plan states that targets should be met by 2035. VIL supports the setting of targets and limits for the Hinds catchment, but notes the Regional Council has the discretion to set the timeframe within which the targets and limits must be achieved. VIL asks that a longer timeframe be specified²⁰ to mitigate effects on the farming community.

Reductions

17.18 Even if the nitrogen load target/limits in Table 13(g) prove to be accurate, VIL is of the view the reductions proposed in Table 13(h) to achieve the Lower Hinds Plains Area target are inequitable, too severe and potentially unnecessary.

Calculation method

17.19 VIL has concerns with the method by which the reductions have been reached:

- (a) Insufficient information is provided about calculation method by which the percentage reductions translate to the nitrogen load limit. As a result, affected parties have no ability to comment or correct inaccurate assumptions. Given the scale of cost to farmers as a result of the reductions, the omission of this detail from the section 32 report is inappropriate.
- (b) Significant reliance is placed on MAR when choosing necessary on-farm mitigation measures. However, there does not appear to be the facility to revisit the reductions in the event MAR is unsuccessful, or more successful than anticipated.
- (c) Calculations carried out by other irrigators in the catchment suggest the nitrogen load limit can be reached with smaller percentage reductions. VIL believes reductions should be accurately set in the first instance, however, it asks that there be some allowance within the Plan for the lack of accurate information when setting reductions. This can be done by the use of an

¹⁹ More detail will be provided at the hearing

²⁰ more detail will be provided at the hearing.

ongoing adaptive management approach to the nitrogen load target, as recommended by the ZIP committee.²¹

- (d) There is no recognition in Table 13(i) for a scenario where the nitrogen load target is reached early. The way the Table currently operates, reductions would continue to apply. This is inappropriate.
- (e) There is no explicit recognition in the Plan that farms can only reduce discharges to a certain extent before being no longer able to farm. The Matters for Discretion under Rule 13.5.17 suggest it is optional whether the Regional Council applies reductions for individual farm consents, however the volume calculated per table 13(i) does not have this. In any event, VIL suggests it would give some comfort to farmers if an explicit recognition of a 'floor' N rate were incorporated within Table 13(h).

Assessment of efficiency and effectiveness

17.20 The cost/benefit analysis carried out in respect of Table 13(h) contains assumptions that have led it to underestimate the effect of the proposed reductions on the farming community. In particular:

- (a) The cost of moving to good management practice (**GMP**) cannot be understood as GMP will not be set within the pLWRP until October 2016.
- (b) There is an assumption that MAR will work. If it does not work, the reductions will be insufficient and more costly measures must be used that have not been assessed.
- (c) There is an assumption that future technology will assist farmers to mitigate the cost of the proposed reductions. However, technology is not costless and the costs of the extra capital and operating costs associated with new technology will ultimately have to be borne by only a small portion of the community.

²¹ Ashburton ZIP Addendum, Recommendation 4.6 and commentary

Who bears the cost?

17.21 The Plan has imposed reductions and therefore the cost of meeting the Table 13(g) target on dairy and dairy support farmers. VIL has a number of concerns with this step:

- (a) The distribution of reductions is inequitable. Reduction measures should be shared amongst all farmers in the sub-catchment. If the Regional Council desires a certain amount of 'user pays' the distribution may not necessarily have to be on an equal basis. Any sharing of cost will lessen the severity of the burden on individual farmers.
- (b) Dairy and dairy support was chosen to take the lion's share of the reductions on the basis a dairy operation is better able to support the cost. This assumes that profitability in the dairy sector will continue, given the length of time proposed to implement the reductions; this is a significant assumption to make. It is too uncertain to base such a significant cost on.

Longer timeframe for implementation

17.22 VIL is of the view a longer timeframe for implementation of the reduction measures is appropriate.

18 VIL supports the following provisions:

- 18.1 Policies 13.4.5 and 13.4.6
- 18.2 Policy 13.4.9 (a) (b) and (c)
- 18.3 The provision for additional irrigation in the Hinds catchment
- 18.4 Permitted activity Rule 13.5.21

19 VIL seeks the following relief:

- 19.1 Amendment of the text inserted before the heading 13.1 on page 13-2 to present a more balanced view of the role of agriculture in the management of the catchment.
- 19.2 Delete Policy 13.4.9(d).
- 19.3 In the alternative, but without prejudice to the relief sought in 12.1 above, amend Policy 13.4.9(d) as follows:

...reducing overall nitrogen losses by ~~45 percent~~ in the Lower Hinds/Hekeao Plains Area...

- 19.4 Delete Policy 13.4.12.
- 19.5 In the alternative, but without prejudice to the relief sought in 12.4 above, amend Policy 13.4.12 to insert a higher target load of nitrogen²² and extend the date by which the load is to be achieved.
- 19.6 Delete Policy 13.4.13.
- 19.7 In the alternative, but without prejudice to the relief sought in 12.6 above, amend Policy 13.4.13 to insert a higher target load of nitrogen; and
- 19.8 Amend Policy 13.4.13(b) as follows:
- ...requiring further reductions in nitrogen loss rates for all farming activities ~~for dairy farming and dairy support~~ from 1 January 2020, in accordance with Table 13(h)...
- 19.9 Provide clarity, either within Policy 13.4.13(c), or by way of an advisory note, what the reference to 30,000ha in this provision applies to, ie currently consented land or future development.
- 19.10 Insert a new Policy 13.4.14(g) as follows:
- ...adverse effects on drainage functionality are avoided.
- 19.11 Delete Matters for Discretion (2) and (4) associated with Rule 13.5.17.
- 19.12 Delete Rule 13.5.22(2).
- 19.13 Amend Table 13(a) to reduce the environmental outcomes sought and increase the timeframe over which they must be achieved. An amended table will be presented at the hearing.
- 19.14 Delete Table 13(g).
- 19.15 In the alternative but without prejudice to the relief sought in 12.14, amend Table 13(g) to increase the Nitrogen Load target for the Lower Hinds Plains Area²³ and increase the period of time over which the target is to be met.

²² Specific figure to be provided at the hearing

19.16 Delete Table 13(h).

19.17 In the alternative but without prejudice to the relief sought in 12.16, amend Table 13(h)²⁴ to:

- (a) Require reductions in nitrogen loss rates from all farming activities.
- (b) Decrease the percentage reductions sought.
- (c) Allow reductions to be implemented over a longer time period.
- (d) Include a proviso that no reductions are required if a farming activity is operating at a specified level of outputs²⁵.

19.18 Delete Table 13(i).

19.19 In the alternative but without prejudice to the relief sought in 12.18, amend Table 13(i)²⁶ to:

- (a) Allow reductions to be implemented over a longer time period.
- (b) Recognise that if farming activities are operating at or below a specified level of N outputs,²⁷ no percentage reductions are required to the tonnage of nitrogen per year for the area covered by that farming activity.
- (c) Recognise that no reductions are required if the target in 13(g) is met.

19.20 Delete Table 13(j).

19.21 In the alternative but without prejudice to the relief sought in 12.20, amend Table 13(j)²⁸ to:

- (a) Increase the period of time over which the targets are to be met.
- (b) Increase the Nitrate-nitrogen concentration targets set for Hill-fed Lower and Spring-fed Plains water bodies.

19.22 Delete Table 13(k).

²³ Detailed figure to be provided at hearing

²⁴ Amended table 13(h) to be presented at hearing

²⁵ Based on industry group suggestions, these outputs would at least be 20kgN/ha/year for farming operations on light soils and 15kgN/ha/year for farming operations on heavy soils.

²⁶ Amended table 13(i) to be presented at hearing

²⁷ Refer to industry group suggestions for amendments to Table 13(h)

²⁸ Amended table 13(j) to be presented at hearing

19.23 In the alternative but without prejudice to the relief sought in 12.22, amend Table 13(k)²⁹ to:

- (a) Increase the period of time over which the targets are to be met.
- (b) Increase the Nitrate-N annual average concentration target.

19.24 Delete the amendment to Schedule 7 that includes a reference to Table 13(h).

Groundwater quantity

20 **This submission supports (in part) provisions of the Plan that encourage water users to swap from surface water or stream depleting groundwater takes to deep groundwater takes.**

21 **This submission opposes provisions of the Plan that reduce groundwater allocation limits in the Valetta groundwater allocation zone (Valetta GAZ).**

22 **This submission opposes provisions of the Plan that prohibit further allocation of water in the Valetta GAZ.**

23 **The reasons for this opposition include, but are not limited to, the following:**

23.1 The Plan purports to reduce the Valetta GAZ allocation figure to its current allocated volume. This step appears to be due to concerns about falling groundwater levels and associated potential adverse effects on springs and spring-fed surface water bodies. The cap is described as a precautionary measure that freezes allocation until monitoring establishes that the groundwater system has stabilised.³⁰

23.2 The Submitter disputes the need to take this step, even if the Regional Council's estimate of 83% allocation is accepted. It notes the section 32 report anticipates only a *small opportunity cost*³¹ with the new allocation limit because *the area is well serviced by irrigation schemes and existing groundwater takes*.³² However, the assessment has failed to account for:

- (a) Where water for the additional 30,000ha of irrigation will be sourced from;
- (b) Where water for MAR will be sourced from;

²⁹ Amended table 13(k) to be presented at hearing

³⁰ Ashburton ZIP addendum, Commentary on recommendation 7.1, page 37

³¹ Section 32 report, section 7.4.3, p92

³² Ibid, section 7.4.1, p86

- (c) Groundwater which is used as an alternative water source when surface water is not available; and
- (d) The fact that groundwater is not always used for irrigation and irrigation scheme water is not always an appropriate source for uses such as dairys shed washdown, primary product processing or running infrastructure.

23.3 VIL supports Rule 13.5.31, with the exception of condition 1. It notes that restricting abstraction to the same property is overly restrictive given the ability to decline consent in any event if the effects of the proposed location are inappropriate. In addition, restricting the location of abstraction does not encourage good infrastructure investment and its associated economic benefits.

23.4 VIL requests a higher allocation limit for the Valetta GAZ. The Plan should also provide for an additional and separate allocation block for deep groundwater. This is more appropriate to give effect to the objectives of the pLWRP.³³

23.5 VIL also requests a separate and additional allocation limit for reliability or supplementary groundwater takes. These takes are only used when circumstances require but provide considerable value to the holder. For much of the time, water allocated for such purposes remains in the environment. Therefore, additional allocation can be made if the correct assumptions around use are made.

24 The submitter seeks the following relief:

24.1 Delete Condition (1) of Rule 13.5.31.

24.2 Insert a new Rule 13.5.31A to allow application for a groundwater permit in the Valetta GAZ as a restricted discretionary activity, provided:

- (a) Table 13(f) is amended as sought by VIL; and
- (b) The sum of groundwater takes in the zone does not exceed the allocation limits set out in the relevant Table; or
- (c) In the alternative, but without prejudice to 17.2(a) above, the volume proposed to be taken does not exceed 10l/s or 200m³/day.

24.3 Delete "prohibited" from Rule 13.5.32 so that any application which fails to meet 13.5.31 or requested new Rule 13.5.31A is discretionary.

³³ In particular objective 3.13, which the section 32 report fails to identify and discuss.

- 24.4 Delete the changes to Table 13(f) so the A allocation limit is increased up to the level at which environmental outcomes for water quantity can be achieved and water availability is maximised. This level is at least 148 (million m³/yr) but may be more.
- 24.5 Include in Table 13(f) a separate and additional allocation block and limit for deep groundwater.
- 24.6 Amend Table 13(f) so that the granting of deep groundwater takes does not create a situation of over-allocation, thereby forcing reduction measures.
- 24.7 Amend Table 13(f) to provide for separate and additional allocation blocks and limits for groundwater to be allocated by way of adaptively managed resource consents as a supplementary or “top-up” source of water at least equivalent to existing consented allocations.
- 24.8 Consequential changes to Schedule 13 setting out how allocation within the various blocks requested is to be calculated.

Transfer of water permits

- 25 **This submission opposes provisions of the Plan that prohibit transfer of water in the Valetta Groundwater Allocation Zone (Valetta GAZ).**
- 26 **The reasons for this opposition include, but are not limited to, the following:**
- 26.1 A complete prohibition on transfer of groundwater consents is contrary to the goals of the Canterbury Water Management Strategy (**CWMS**), the objectives of the pLWRP and the NPSFM 2014.³⁴
- 26.2 Enabling water to move to its highest value use over time drives both allocative and technical efficiency. It ensures that water users within the Valetta GAZ are able to achieve the best value use and return from the limited resource. The transfer controls within the pLWRP are more appropriate for the Valetta GAZ (subject to the provision for stored groundwater to be included in the calculation of reasonable use).
- 26.3 VIL also seeks additional provision:
- (a) for a consent holder to transfer water in full to an irrigation scheme. This better enables VIL to manage water allocated within its scheme area as VIL

³⁴ Objective B3 and Policy B3

is uniquely placed to implement the targeted stream augmentation enabled within the plan.

- (b) for a consent holder to transfer water to another parcel of land where that land is also owned by the consent holder or related entity. In effect, the consent holder is allowed to manage their overall water allocation – which may be the sum of several resource consents – as they see fit and as commercial conditions require from time to time. This is somewhat analogous to a water user group concept or even the farming enterprise concept for nutrient management.

27 VIL seeks the following relief:

- 27.1 Delete Rule 13.5.34 as notified.
- 27.2 Insert a new Rule 13.5.34 allowing the full transfer of groundwater consents in the Valetta GAZ to an irrigation scheme.
- 27.3 Insert a new rule or exception allowing the transfer of groundwater consents in the Valetta GAZ to another parcel of land within the Valetta GAZ where that land is also owned by the consent holder or related entity or the consent is held by an irrigation scheme without requirement to surrender part of any prior allocation.

Consented volume

28 This submission opposes provisions of the Plan that require consented volumes to be calculated based on Method 1 in Schedule 10.

29 The reasons for this opposition include, but are not limited to, the following:

- 29.1 Groundwater held by VIL shareholders enables reliability of supply in the Valetta GAZ. Unreliable surface water is used by shareholders as it is generally more economic than pumping groundwater from deep aquifers, however groundwater is critical to enable continued productivity during low flow periods or periods when surface water is unavailable. Groundwater is being effectively used as a form of storage. Calculating volumes for renewed consents based on Method 1 fails to account for this sub-catchment specific scenario.
- 29.2 Groundwater which is 'stored' but not actually used should be included in the reasonable use calculation to the extent that it is not currently provided for in Methods 2 and 3 of Schedule 10.

- 29.3 It is important that the consented volume for an established operation is based on “reasonable use”. This provides on-going viability of use and appropriately recognises the investment inherent in the existing consent. The Land and Water Regional Plan policies speak of “reasonable use” and require determination of this in accordance with Schedule 10. It is unclear why Variation 2 limits the method of determination to only Method 1 of Schedule 10.
- 29.4 The section 32 Report suggests the change is to avoid reallocation of ‘surplus’ water. However, a consented volume is an absolute maximum. It is not intended to reflect how much water is used on average or even most of the time. In light of that, the data referred to does not support the notion that consent holders have considerably more water allocated than needed.
- 29.5 There is no reason to eliminate Methods 2 and 3 of Schedule 10 as being a means of deriving reasonable volumes for existing consents and groundwater which is reasonably required for storage (but not actually used) should be included in any calculation of reasonable use.

30 **VIL seeks the following relief:**

- 30.1 Amend Policy 13.4.16 as follows:
- ...limiting the volume and rate of abstraction on replacement water permits to reasonable use calculated in accordance with ~~method 1 in~~ Schedule 10...
- 30.2 Amend Policy 13.4.16 to include groundwater which is allocated but not actually used and is reasonably required to achieve a reasonable level of reliability when used in conjunction with surface water, in the calculation of reasonable use, as follows:
- ...provided that water reasonably required for storage, whether in-ground or above ground, but which is not actually used shall be included in the calculation of reasonable use...
- 30.3 In the alternative, but without prejudice to the relief sought above, amend Rule 13.5.30 as follows:
- ...the annual volume and maximum rate of take has been calculated in accordance with ~~method 1 in~~ Schedule 10 provided that water reasonably required for storage, whether in-ground or above ground, but which is not actually used shall be included in the calculation of reasonable use....
- 30.4 Amend Matter for Discretion (1) of Rule 13.5.31 as follows:

...whether the volume and abstraction rate of water to be taken and used is reasonable for the proposed use assessed in accordance with ~~method 4 in~~ Schedule 10 provided that water reasonably required for storage, whether in-ground or above ground, but which is not actually used shall be included in the calculation of reasonable use ...

Stock Exclusion

31 **This submission opposes the stock exclusion controls in the Plan.**

32 **The reasons for this opposition include, but are not limited to, the following:**

33 Stock are often used to graze the banks of artificial watercourse used to convey irrigation scheme water and are an effective management tool for maintenance of artificial water courses.

34 Depending on the profile of the watercourse stock do not tend to enter such watercourses.

35 With respect to watercourses used to convey irrigation scheme water, this water is invariably filtered through its use for irrigation.

36 **VIL seeks the following relief:**

36.1 Amend Rule 13.5.26 as follows:

...but does not include any sub-surface drain, stormwater swale or other artificial watercourse which is ephemeral in nature, or any artificial watercourse used to convey irrigation scheme water.

37 **With respect to all of the specific items of relief set out above, VIL seeks any consequential amendments necessary to policies, methods or other provisions in order to give full effect to the specific relief sought.**

38 **VIL wishes to be heard in support of its submission.**

39 **If others make a similar submission, VIL would consider presenting a joint case with them at any hearing.**

Dated this 24th day of October 2014



T W Evatt / P J Newland

Counsel for VIL

ADDRESS FOR SERVICE:

Tavendale and Partners
P O Box 442
Christchurch 8140
Attention: Pip Newland
15b Leslie Hills Drive
Ph: (03) 374 9999
Fax: (03) 374 6888
Email: pip.newland@tp.co.nz