

From: [Geoff Meadows](#)
To: [Nancy Bonner](#)
Subject: Submission on Plan Change 4 to the CLWRP
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Attachments: [Submission on plan change 4 to the Canterbury Land and Water Plan.DOCX](#)

Hi Nancy

Submission from this Council attached.

Regards

Geoff Meadows

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Waimakariri District Council



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WAIMAKARIRI DISTRICT COUNCIL

Submission to Plan Change 4 to the Canterbury Land and Water Regional Plan

Attention: Policy Manager
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1 Submission: General

The principal point of submission from this Council is point 7 below in relation to proposed new Policy 4.16A, which proposes to require operators of reticulated storm water management systems to manage the quality and quantity of all storm water directed to its systems and discharges from 1 January 2025. The requirement for the Council to be responsible for the storm water discharges from high risk sites such as construction-phase storm water and contaminated sites is currently a responsibility of the Regional Council. Proposing to shift this responsibility to territorial authorities is planned without the consent and agreement of the operators of the storm water management systems.

The Regional Stormwater Forum is a collaborative group of Canterbury councils, including the Canterbury Regional Council, and this forum is working through the issue of responsibilities of storm water system operators. It is not considered appropriate to insert proposed Policy 4.16A while this collaborative process for an agreed region-wide outcome is still being developed.

Reason for submission:

Each of the following submissions consists of a specific decision requested. It is recognized that there may be alternative ways in which a similar outcome could be achieved. It is also recognized that in some instances the relief sought may require a consequential amendment to another section of the plan.

Decision requested:

That each submission from the Waimakariri District Council is deemed to be accompanied by the following caveats:

- Any additional or alternative relief that achieves the same or similar outcome;
- Consequential or ancillary changes as a result of the specific relief sought.

2 Definitions of earthworks and vegetation clearance

Reason for submission:

The changes to these definitions with the inclusion of the term “production land” and the specification of a date for land in “production” raises a number of issues:

It is unclear why it is considered desirable to include the proposed date of notification in the definition, when previously there was none. If a commencement date is to be included it should be standardized. In the consultation draft it is 1 September for earthworks and 5 September for vegetation clearance.

The introduction of the term “on production land” raises the issue of definition. Presumably if it has been seen fit to substitute this term for “the establishment of crops or pasture”, the scope of this term differs from these activities. It is noted that in the

proposed Canterbury Land and Water Regional Plan (CLWRP) a definition of production land was provided, but removed as being considered redundant by the Hearing Commissioners. This definition if provided in the amended plan would include horticulture and forestry, which would not necessarily be seen as included in with “crops or pasture” and also ancillary buildings. If the intention of the change is to broaden the scope to these definitions, consideration probably should be given to reinstating the definition of “production land”.

Decisions Requested:

- Standardize the date under the definition of earthworks and vegetation clearance on production land.
- Reinstate the definition of production land.

3 Definition of Floodwaters and amended Rules 5.142 and 5.142A

Reason for submission:

The new definition “floodwaters” is associated with the change proposed to Rules 5.142 and 5.142A. It very difficult to understand the need for these two rules, given that the original Rule 5.142 provided for work related to the diversion of surface run-off caused by flooding to be done by or on behalf of local authorities in accordance with a protection plan consistent with the Regional Council’s technical manual. The new rule, while not specifying who may undertake the work, requires that to be a permitted activity, the time allowed for any diversion of floodwater is 48 hours plus a range of other conditions. However flooding, including the drain down as a result of flooding, is a natural event, and the responsible party for who should hold control of flooding, is unclear. Rule 5.142A makes any activity that cannot comply with these conditions a discretionary activity.

As proposed the definition of “floodwaters” refers only to water that inundates a property as the result of the “breaching of the banks of a surface water body”. Consideration should be given to adding the term “overtopping”, as flooding from a major river system can result from either the breaching or the overtopping of banks. Given that the definition refers to all “surface water bodies”, it is also possible that floodwaters could result from the overtopping of natural banks as well as flood protection structures. In such cases, the term “overtopping” rather than “breaching” would apply.

If there is a serious release of floodwaters of the magnitude that has been experienced in the past or signaled by recent flood modeling, the previous permitted activity rule would be more appropriate than the proposed relatively restrictive permitted activity rule and associated discretionary activity rule. For example, in the 1950s a breakout from the Ashley River/Rakahuri saw flood waters ponding behind the dunes at Waikuku, which were eventually cleared by bulldozing a gap in the dune. Such an action would not necessarily have been done within 48 hours, and would not necessarily comply either with the proposed conditions in Rule 5.142, so would presumably have required a retrospective consent under Rule 5.142A. These two new rules do not appear to be very practical, which raises the issue of why they are considered necessary.

Decision Requested:

Delete Rule 5.142 and Rule 5.142A

4 New Policy 4.14B

Reason for submission:

This Policy also raises two issues. It is difficult to envisage situations where the Council would be considering resource consent applications for “non-point source” discharges. It should also be noted that there are no cultural landscapes identified in the pCLWRP, and that cultural landscapes will be defined in district plans under the RMA not in a regional land and water plan. At regional level it is the Regional Policy Statement that gives direction to districts with respect to landscape protection, including cultural landscapes, where appropriate.

Decision requested:

Delete Policy 4.14B

5 Definition of “Available reticulated stormwater system”

Reason for submission:

In many situations the requirement implied in this definition is not likely to be practical, irrespective of the attitude of the network provider to accept the stormwater concerned. For example, there may not be sufficient “fall” to allow the gravity feed and/or there may not be legal access across the adjacent land. Irrespective of the situation, the Council would prefer to see run-off from rural structures going to ground where conditions are suitable as the first choice, rather than being required to be transported to stormwater reticulation systems.

Decision requested:

Add “where practicable” after “under gravity” in point 2 of the definition of “Available reticulated stormwater system”.

6 Drainage water and drainage systems v stormwater and stormwater systems

Reason for submission:

The amendment to the definition of a drainage system in contrast to a stormwater system is generally supported. The inclusion of the term “canal” however is inappropriate. To provide further clarification of the distinction, consideration could be given to adding “rural” to the definition so that it reads “rural drainage water and rural drainage system”.

The definition of stormwater, however, remains wide as it refers to water and entrained contaminants arising from precipitation on the “external surface on any structure”. To avoid further confusion, consideration could be given to adding the words “and ancillary structures” to point 1 of the amended definition “drainage system”, and following the words “excess surface water from agricultural and rural land” so that it reads: “1. Collecting or draining water and contaminants from agricultural or rural land and ancillary structures.” Such changes would mean that any structure in a rural area not allied to the use of rural land would still be seen as generating stormwater that may require management, while the run-off from farm dwellings and other farm buildings could be managed within the context of a rural drainage system.

Such a change would impact on the definition of “*Available reticulated stormwater system*”. It would remove any doubt about whether it would be necessary for the owners of a farm property within 50 metres of an urban stormwater system with either a farm house and/or outbuildings within 100 metres to have to approach the network operator about the possibility of having to connect to the stormwater system. It would be clear from the definition of drainage water that the water from such buildings was not classified as “stormwater” for the purposes of the CLWRP.

The definition of reticulated stormwater system requires some attention. The word “drains” should be reinstated, and the word “kerb” removed. Without a definition, the term urban creates some difficulties if it is applied to smaller settlements that would not otherwise be regarded as “urban” in the context of a dictionary definition. Consideration could be given to referring to an area zoned in a district plan for residential, commercial or business use.

Decisions requested:

- Amend the definition of “Drainage system” to “Rural drainage water and rural drainage system”.
- Amend point one of the definition of “Drainage system” to “1. Collecting or draining water and contaminants from agricultural or rural land and ancillary structures”.
- Amend the definition of “reticulated stormwater system” to reinstate the word “drains” and delete the word “kerbs” and replace the phrase “within urban areas” to “areas zoned residential, commercial or business use in a district plan”.

7 Management of reticulated stormwater systems - Policy 4.16A

Reason for submission:

The Council is concerned about the requirement for operators of reticulated stormwater systems to manage the quality and quantity of all storm water directed to its system and discharges from its system from 1 January 2025. Its concern relates to the requirement for it to be responsible for the storm water discharges from the high risk sites such as contaminated sites, construction-phase storm water and dewatering operations, which are currently consented by Ecan. The Council considers that it is appropriate for Ecan to continue to be responsible for consenting the discharges from these sites as it has the specialists in this sphere.

There would appear to be some tension between the new Policy 4.16A and the new rules covering construction-phase storm water. Prior to 2025 the Council considers that it should be able to require an Ecan consent to accompany any application to discharge construction-phase storm water into its stormwater system rather than being expected to rely on the applicants assessment that it meets Ecan permitted activity status. Despite proposed Policy 4.16A, it also considers that this arrangement should continue, as otherwise the Council considers that it would be being asked to carry an unacceptable risk, in a situation where its power to enforce standards is more limited than that of the regional council.

The Council currently regulates access to its stormwater system through its *Stormwater Bylaw 2011*, and in its view, the arrangements that see high risk activities remain responsible for their discharges in accordance with the bylaw are satisfactory. The Council urges Environment Canterbury to maintain a system that provides for the high risk enterprises to be required to have their discharges consented by the Regional Council. If this situation is allowed to continue, any breaches of consent conditions by these enterprises would be subject to enforcement proceedings under the *RMA* with ultimate recourse to the Environment Court. Under the current proposal either the

Council would be attempting to take enforcement action under its Stormwater Bylaw, or find that the Council itself is subject to enforcement action by Environment Canterbury under the *RMA*.

Decision requested:

- Delete Policy 4.16A

8 Definition of the stock exclusion zone for braided rivers – Rule 5.68A

Reason for submission

While Rule 5.68 provides for the use of areas defined by Rule 5.68A as constituting the bed of a braided river as a permitted activity under specified conditions, and Rule 5.69 and 5.70 provide for use by livestock with conditions as a discretionary or non-complying activity respectively. Consideration could be given to leaving any attempt to provide a basis for stock exclusion from areas adjacent to braided rivers to the sub-regional chapters so that each situation can be sorted out separately. If there are already cases, including the leasing of land from Ecan, which might be called into question by the introduction of Rule 5.68A, the risks associated with the continued use until the matter can be sorted out on a case by case basis would appear to be limited, when compared with the disruption to any farming operations that may involve the use of such land.

Decision requested:

Delay introduction of rule 5.68A to the formation of the sub-regional chapters to account for each sub-regional characteristics.

9 Change to definition of community drinking-water supply and consequential Rule changes

Reason for submission:

The proposed change to the definition of community drinking-water supply and consequential Rule changes has merit. This change means that it will no longer be necessary to distinguish between small scale community drinking-water supplies and those serving populations of greater than 500. The requirement to use a number of people supplied as the basis for providing protection for the sources of community drinking-water supply protection carries difficulties associated with movement around the threshold selected.

For example, if one or two of the household on the supply have visitors the number of people taking water from the supply may exceed the trigger for protection but not at other times. Similarly, a house occupied by two people may be sold to a large family and as a result the number supplied exceeds the threshold. Consideration should be given to providing for protection for the sources of all council-operated community water supplies irrespective of the number of people taking water from the supply.

Decision requested:

Provide for protection for the source of water for all Council-operate community drinking-water supplies.

10 Preamble to Rule 5.95

Reason for submission:

In view of the changes proposed to Rule 5.95 it would be helpful to clarify that it addresses discharges of storm water that are not into a reticulated system.

Decision requested:

Add the word “*directly*” in the preamble after storm water, so that the introduction reads “*The discharge of storm water directly into a river...*”

11 Changes to Rule 5.96

Reason for submission:

The track change version of Rule 5.96 indicates that it was extensively amended on submission from Christchurch City Council and designed to fit the particular set of circumstances faced in residential areas such as Spencerville that do not have reticulated stormwater systems. The changes proposed in plan change 4 would appear to create further problems by including rural activities and the application of a threshold for any small scale stormwater “treatment” system.

Consideration should be given to separating out the controls on “stormwater” and “drainage water”, as suggested earlier in these comments on Plan Change 4, and including drainage from “ancillary structures” associated with farming with drainage water and drainage water systems. It would appear that any discharges of stormwater that do not go into a reticulated stormwater system are addressed under Rule 5.95 irrespective of location. Under these conditions, it would be more appropriate to leave Rule 5.96 as designed based on submissions for the particular set of circumstances it addresses.

If this approach is adopted, it would appear reasonable that in addition to only addressing land residentially zoned, that it could reinforce the requirement for connection to reticulated stormwater systems where available, but not necessarily attach limits to any small scale collection or treatment system. It is also noted that in this instance the term “site” is retained, while elsewhere in the plan changes have been made with “property” replacing “site”.

Decisions requested:

- Retain Rule 5.96 points 1 and 2;
- Amend point 2 (c) and (f) to read “property” instead of “site”.

12 The Council wishes to be heard in support of its submissions.