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To: [Mailroom Mailbox](#)
Cc: [Jennifer Miller](#)
Subject: Forest & Bird submission on PC 4 to LWRP
Date: Monday, 12 October 2015 2:18:29 p.m.
Attachments: [Forest & Bird submission Canterbury LWP Variation 4.pdf](#)

Good afternoon,

Please find attached a submission on behalf of the Royal Forest and Bird Protection Society of NZ Incorporated on the proposed Plan Change 4 to the Canterbury Land and Water Regional Plan.

Please note that the contact person for this is Jen Miller: j.miller@forestandibrd.org.nz

Regards,
Erika Toleman

Erika Toleman

SOLICITOR

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RESOURCE MANAGEMENT ACT 1991

SUBMISSION ON PROPOSED PLAN CHANGE 4 TO THE CANTERBURY LAND AND WATER REGIONAL PLAN

To: Environment Canterbury

Submitted by email to mailroom@ecan.govt.nz

From: Royal Forest and Bird Protection Society of New Zealand Incorporated of New Zealand
(Forest & Bird)

Address for service:

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INTRODUCTION

1. Forest & Bird could not gain an advantage in trade competition through this submission.
2. Forest & Bird wishes to be heard in support of this submission, and would be prepared to consider presenting this submission in a joint case with others making a similar submission at any hearing.
3. Forest & Bird is New Zealand's largest non-governmental conservation organisation with 70,000 members and supporters. Forest & Bird originally set out to protect New Zealand's unique flora and fauna the tasks of Forest and Bird in more recent years has extended to protecting and maintaining the environment surrounding the flora and fauna. Establishing wildlife reserves, initiating protection campaigns and promoting general public awareness around what is happening in and around New Zealand is all central to Forest & Bird's establishing principle of flora and fauna protection.
4. This submission follows the order of the Amendment Categories. Where comment is made on a particular policy or rule, that comment relates to the proposed amendment made for that Amendment Category.

Amendment Category A: Inanga Spawning Sites and Inanga Spawning Habitat

Proposed new provision	Support/oppose	Reasons	Decision sought
Section 2.9 - Definitions: Inanga Spawning Habitat	Support in part	PC 4 treats Inanga Spawning Sites and Inanga Spawning Habitat differently. A definition for both terms should be included in section 2.9.	Retain, and also include definition for Inanga Spawning Sites
Section 4 – Policies: 4.31	Support in part	Policy 4.3.1(b) has been amended so that it now applies to the waterbody bed and banks “closely adjacent to”, rather than “closely upstream” of various sensitive areas. While including ‘adjacent to’ is helpful, the removal of the ‘upstream component may lessen the impact of the policy.	4.3.1(b) should read: “...and the waterbody bed and banks closely adjacent to and upstream of these areas;”
4.86A	Support in part	The use of the phrase ‘as a first priority’ effectively undermines the protection given by the policy. Further, if avoidance cannot be avoided (the policy gives no guidance on what acceptable grounds for not being able to avoid), the ‘best practicable’ option can simply be used. ‘Best practicable option’ is defined in the LWRP, but the definition only relates to emissions of noise and contaminants. The definition does not provide guidance on all the likely disturbance activities that could affect inanga spawning sites.	Amend policy to read: “Inanga spawning sites are protected though avoiding activities within the beds and margins of lakes, rivers, hapua, wetlands, coastal lakes and lagoons that may damage inanga spawning sites.”

Proposed new provision	Support/oppose	Reasons	Decision sought
4.86B	Support in part	Delete 'where it is practicable' as currently written it is meaningless. Support the extension of time for habitat rehabilitation.	Delete 'where it is practicable'.
Section 5 – Rules: 5.136, 5.137, 5.138, 5.139, 5.140, 5.141, 5.148, 5.151, 5.152	Support in part	F&B supports the general approach of these rules to protect both Inanga Spawning Sites and Habitat. However, the extended period (1 Jan - 1 June) should apply to all activities in Inanga Spawning Habitat, given the likely disturbance of that habitat and the need for it to recover before spawning occurs. Also note that Table 1 – Amendment Categories lists 5.152A as a changed rule in this Category. That appears to be an error; the change has been made to 5.152.	
5.163, 5.167, 5.168, 5.169, 5.170	Support	These rules provide appropriate protection for Inanga.	Retain
5.140A	Oppose	The exceptions relating to Inanga Spawning Sites and Habitat should apply to this activity.	Insert Inanga exceptions into this rule.
Schedule 17	Support		Retain

Amendment Category D: Group and Community Drinking Water Supplies

Proposed new provision	Support/oppose	Reasons	Decision sought
Policy 4.5	Support in part	The policy appropriately refers only to 'community drinking water supplies' being a first priority. It does not refer to 'community water supplies', which is a much broader term, which is more aligned with the second priority uses listed in the policy (i.e. irrigation, other economic activities etc).	If policy is intended to cover community water supplies, include this in the list of second priority uses. Otherwise retain as proposed.
Section 5 Rules: 5.7, 5.8, 5.71, 5.75, 5.77, 5.82, 5.91, 5.199	Support		Retain

Amendment Category H: Vegetation and Earthworks etc

Proposed new provision	Support/oppose	Reasons	Decision sought
Section 2.9 Definitions:	Support in part.	Part (a) of the definition is too broad, and needs to be reworded so as to not allow wide scale earthworks that may have adverse effects on biodiversity. While F&B supports the apparent intent of the change to mean that any new	Amend (a) so that effects of cultivation on water quality and biodiversity

Proposed new provision	Support/oppose	Reasons	Decision sought
Earthworks		<p>cultivation of the soil will not be exempted, we are concerned that the drafting is not precise enough to actually achieve that apparent intent.</p> <p>Cultivation on ‘production land’ has effects on water quality, and can frequently result in the loss of terrestrial native vegetation and habitat within that land. The definition ignores the fact that land used for production may still retain very high natural values – it assumes that any land in production will be exclusively e.g. exotic pasture, or a field of cabbages.</p> <p>The same issues arise for the amendments to the vegetation clearance definition. While land may be ‘production land’, the scale and effects of the earthworks may be of a very different scale than has occurred before on that land. It is inappropriate to exempt cultivation in those circumstances.</p> <p>If production land is going to remain in this and the vegetation clearance definitions it will need its own definition.</p>	<p>are addressed.</p> <p>If production land is going to remain in the earthworks definition it will need its own definition.</p>
Section 2.9 Definitions: Vegetation clearance	Support in part, oppose in part.	<p>As in the earthworks definition, part (a) of the definition is too broad, and needs to be reworded so as to not allow vegetation clearance that may have adverse effects on biodiversity. Currently the definition would allow cultivation or harvesting of vegetation that is on land that has been established as production land by September 2015, regardless of whether the effects are of a different scale and/or nature as has occurred before on that land. For example, the vegetation clearance involved in turning dry short tussocklands used to run sheep, into exotic pasture for instance would likely be exempted under this definition, as the land is already ‘production land’.</p> <p>Cultivation and harvesting on ‘production land’ has effects on water quality, and can frequently result in the loss of terrestrial native vegetation and habitat</p>	<p>Amend (a): so that effects on biodiversity are addressed.</p> <p>Delete (b), retain (f) and (g).</p> <p>Include vegetation alteration and disturbance in this definition.</p>

Proposed new provision	Support/oppose	Reasons	Decision sought
		<p>within that land. The definition ignores the fact that land used for production may still retain very high natural values (although it is an improvement on the earthworks definition, as it refers to ‘crops or pasture’).</p> <p>Further, ‘production land’ is not defined – most of Canterbury has been used for production of some sort or other. It needs to be defined if it is retained in the exemption.</p> <p>Oppose (b) – this exemption is far too broad and fails to recognise the adverse effects of clearance for structures and utilities.</p> <p>Support (f) and (g).</p> <p>This definition should include vegetation alteration and disturbance, as this can have significant adverse effects, even where it is not complete ‘removal’. The rules (e.g.5.163) envisage that such disturbance will be managed. This definition is too narrow.</p>	<p>If production land is going to remain in the vegetation clearance definition it will need its own definition.</p>
<p>Section 4 – Policies: 4.85A</p>	<p>Support in part</p>	<p>Support the general intention of this policy. However the exemption at the end of (b) is too broad, and suggests that vegetation clearance for the exempted activities doesn’t need to be limited at all. Even if the Plan intends to generally allow those activities, there should be controls on vegetation clearance for these activities, so that the disturbance is kept to the minimum possible. Either this exemption section should be deleted, or it should be amended to make clear that these activities also need to be managed so as to limit their adverse effect on biodiversity.</p> <p>It is unclear whether the final section of the policy (starting “unless the vegetation clearance...”) is intended to apply to only (b), or both (a) and (b).</p>	<p>Either entirely remove the exemption at the end of (b), or include the words ‘in which case the vegetation clearance will be kept to the minimum necessary’.</p> <p>If the exemption section is to remain, remove the gap between the end of</p>

Proposed new provision	Support/oppose	Reasons	Decision sought
		<p>The wording of the final section suggests it only applies to (b), however the drafting structure suggests the final section is intended to apply to both (a) and (b). F&B’s view is that it should only apply to (b), as no new activities should be allowed to encroach on the beds and margins of waterbodies.</p> <p>It is also not clear why (a) does not include wetlands and coastal lagoons.</p>	<p>(b) and the start of the final section, so that it reads as one section (b).</p> <p>Include wetlands and coastal lagoons in (a).</p>
Section 4 – Policies: 4.92A	Support	Policy important to enable restoration and enhancement activities.	Retain
Section 5 – Rules: 5.146A, 5.146B	Support		Retain
5.163, 5.164, 5.165	Support in part	<p>This rule manages both vegetation removal and disturbance, which is appropriate. However, the vegetation clearance definition only refers to ‘removal’ of vegetation. As per our submission point above, the definition needs to include vegetation alteration and disturbance. Otherwise the Plan will be failing to manage a potentially significant adverse effect.</p> <p>Support change to 5.163(2).</p> <p>5.163(6) is now too narrow, and will only manage the effects of <i>removal</i>. Both the definition (as submitted above) and the rules need to incorporate disturbance and damage to vegetation.</p> <p>5.163 (8) – the rule needs to make clear on what basis those agencies would give the permission.</p>	<p>Retain words: ‘and disturbance’ in introduction to rule.</p> <p>Retain 5.163(2).</p> <p>Amend (6) to manage both removal and alteration/disturbance.</p> <p>Amend (8) to include detail on basis for and required details of permission.</p>

Proposed new provision	Support/oppose	Reasons	Decision sought
		<p>Support intended protection of the rivers listed in 5.163(9), but this condition is far too broad and unworkable for a permitted activity. There is no way that this could be accurately assessed by a plan user, and conversely it would be almost impossible for the Council to monitor and enforce. Taken literally, any vegetation clearance will result in the reduction in at least the area, if not the diversity of existing riverbed vegetation. Support this activity being dealt with as a non-complying rule (as per 5.165).</p> <p>Further, a number of braided rivers, not only alpine rivers, provide habitat for endangered bird species. Their nests are often cryptic and breeding sites may not be obvious. More needs to be done to enhance nesting outcomes, including e.g. lupin removal, and controls on activities in these rivers. If this PC is not going to include provisions to protect braided rivers, the third option mentioned in the s32A report (top of pg 45) should be pursued without delay, and another PC proposed to give effect to it.</p>	<p>Amend condition (9) to read: "From 5 September 2015, no vegetation clearance takes place in the bed of the Clarence, Waiau, Hurunui, Waimakariri, Rakaia, Rangitata, and the Waitaki rivers."</p> <p>Include provisions to protect all braided rivers used by endangered bird species.</p>
5.167	Oppose in part	<p>5.163(6): Same issue as in 5.163(9). This is not appropriate as a condition for a permitted activity. The activity should be dealt with by a consent requirement. In order to be consistent with the lake and riverbed vegetation clearance rules, this should be a non-complying activity.</p> <p>Also, this condition mentions earthworks as well as vegetation clearance, whereas this rule only relates to vegetation clearance. The references to earthworks should be deleted.</p>	<p>Amend condition (6) to read: "From 5 September 2015, no vegetation clearance takes place in the bed of the Clarence, Waiau, Hurunui, Waimakariri, Rakaia, Rangitata, and</p>

Proposed new provision	Support/oppose	Reasons	Decision sought
			the Waitaki rivers.”
5.168	Support in part	<p>5.168(5): Same issue as in 5.163(9). This is not appropriate as a condition for a permitted activity. The activity should be dealt with by a consent requirement. In order to be consistent with the lake and riverbed vegetation clearance rules, this should be a non-complying activity.</p> <p>It is also unclear as to what this condition is trying to achieve. The rule governs earthworks, but this condition is a mix of both vegetation clearance and earthworks.</p> <p>Further, the condition refers to works in the beds of these rivers, whereas this rule only applies to Riparian Areas (rather than the actual beds).</p> <p>Whether land use consent has been issued is not necessarily relevant to the effects of the earthworks on biodiversity in the riparian margins. This should not be an exemption to this condition (or rule).</p>	Amend condition (5) to read: “From 5 September 2015, no earthworks take place in the riparian margins of the Clarence, Waiau, Hurunui, Waimakariri, Rakaia, Rangitata, and the Waitaki rivers.”
5.169	Support in part	As above, vegetation clearance in the beds and margins of the Clarence, Waiau, Hurunui, Waimakariri, Rakaia, Rangitata, and the Waitaki rivers should be non-complying.	Create new rule to provide for non-complying status for vegetation clearance and earthworks in the Clarence, Waiau, Hurunui, Waimakariri, Rakaia, Rangitata, and the Waitaki rivers and

Proposed new provision	Support/oppose	Reasons	Decision sought
			their margins.

Amendment Category J: Sediment-laden water discharges

Proposed new provision	Support/oppose	Reasons	Decision sought
Section 2.9 – Definitions: Sediment-laden water	Support		Retain
Section 4 Policies: 4.76A	Support		Retain
Section 5 Rules: 5.109	Support in part	<p>5.109(5)(1) should refer to wetlands, if it is intended that discharges to wetlands are to be allowed under this rule. Also, although the RMA definition of river includes streams, for clarity spring-fed streams should be included in this condition.</p> <p>Consider applying the lower limit of 50mg/m³ to all other rivers.</p> <p>Include the condition found in rule 5.119(7A) regarding visual clarity</p>	<p>Amend condition (5)(1) to include spring fed streams and wetlands.</p> <p>Amend the rule so that the lower limit of 50mg/m³ applies to all rivers.</p>

Proposed new provision	Support/oppose	Reasons	Decision sought
		standards.	Include the condition found in rule 5.119(7A) regarding visual clarity standards.
5.119	Support in part	Same comments as for rule 5.109, except that in this rule ‘wetland’ is included.	Amend as per rule 5.109 submission.
5.163	Support in part	<p>5.163(10): discharge limits should also apply to fencing and network utility activities.</p> <p>5.163(10)(1) needs to refer to wetlands if it is intended that this rule will manage such discharges.</p> <p>As above, rule should specifically refer to spring-fed streams for clarity.</p>	<p>Amend rule so it applies to fencing and network utility structures, in particular their establishment.</p> <p>Include reference to wetlands and spring-fed streams.</p>
5.164, 5.165, 5.166	Support		Retain
5.167	Support in part	<p>5.167(2A): discharge limits should also apply to fencing and network utility activities.</p> <p>5.167(2A)(a) needs to refer to wetlands if it is intended that this rule will manage such discharges.</p> <p>As above, rule should specifically refer to spring-fed streams for clarity.</p>	<p>Amend rule so it applies to fencing and network utility structures, in particular their establishment.</p> <p>Include reference to</p>

Proposed new provision	Support/oppose	Reasons	Decision sought
			wetlands and spring-fed streams.
5.168	Support in part	<p>5.168(2): discharge limits should also apply to fencing and network utility activities.</p> <p>5.167(2)(1) needs to refer to wetlands if it is intended that this rule will manage such discharges.</p> <p>As above, rule should specifically refer to spring-fed streams for clarity.</p>	<p>Amend rule so it applies to fencing and network utility structures, in particular their establishment.</p> <p>Include reference to wetlands and spring-fed streams.</p>
5.169	Support		Retain
5.170	Support in part	Although condition 4 is not part of this plan change, as above, if this rule is intended to manage discharges to spring-fed streams and wetlands then they should be included.	Amend rule to include reference to wetlands and spring-fed streams.
5.171	Support		Retain

Amendment Category L: Stock Exclusion

Proposed New Provision	Support/Oppose	Reasons	Decision Sought
Section 5 Rules: 5.68A	Support		Retain
5.68	Oppose in part	5.68(3) is too limited in its protection of Hill and High Country areas. It is not appropriate for this to be a permitted activity in these areas.	Either amend 5.68(3)(c)(1) to read: “lake located <u>within</u> the Hill and High Country Area” OR delete the new proposed change to (3)(c) entirely.
5.71	Support		Retain

Amendment Category M: Minor Corrections

Proposed new provision	Support/oppose	Reasons	Decision sought
Section 2.9 Definitions: High naturalness waterbodies	Support in part	This new definition replaces the old definition for Outstanding fresh water bodies, but omits water bodies subject to Water Conservation Orders. This should be reinserted into the new definition.	Amend definition to include water bodies subject to Water Conservation Orders.
Objective 3.14	Support in part	Query effect of change in practice. F&B opposes any limiting of the application of this objective to fewer waterbodies. If that is the result of this change then F&B opposes the change.	If change lessens the coverage of this objective, delete it.
Policy 4.86(a)	Support in part	Natural character should be preserved not simply 'maintained': s.6(a).	Replace 'maintained' with 'preserved'.
5.116 and 5.123	Oppose in part	Deletion of 'measured' and replaced with 'estimated'. This is on waterbody with minimum flows, so estimates will be clearly inadequate.	Delete amendment.

Amendment Category O: Water Takes and Water Supply Strategies

Proposed new provision	Support/oppose	Reasons	Decision sought
Policy 4.49	Oppose in part	'Community water supply' can include water taken for commercial uses. As such, F&B questions whether it is appropriate to provide for an exemption of such takes from minimum flows and other environmental flow regimes etc.	Consider limiting this policy to community drinking water supplies, or at least to non-commercial community uses.
Section 5 Rules: 5.114A	Support in part	Support the matters of discretion being broad enough to allow consideration of all water and biodiversity effects.	Support
5.115	Support in part	The matters of discretion do not adequately provide for consideration of any effects on biodiversity. Community water supplies can be used for a wide range of uses, and it is inappropriate that any effects of these cannot be properly considered under this rule.	Include all relevant matters of discretion from 5.123 and 5.128.
5.123	Support in part	5.123(13) should also be included in the conditions of the restricted discretionary rule, so that the rule does not apply where a Farm Environment Plan has not been prepared.	Insert a new condition (4) to the rule, requiring a Farm Environmental Plan.
5.128	Support in part	5.128(11) should also be included in the conditions of the restricted discretionary rule, so that the rule does not apply where a Farm Environment Plan has not been prepared.	Insert a new condition (4) to the rule, requiring a Farm Environmental Plan.

Proposed new provision	Support/oppose	Reasons	Decision sought
Schedule 25	Support in part	Provides clearer guidance for this activity. However, the schedule lacks any requirement to assess the environmental effects of the take and use. Given the range of uses that a community water supply can be used, this is inappropriate.	Retain, but include requirement to assess any environmental effects from the take and use.

Amendment Category P: Groundwater and Surface Water Limits

Proposed New Provision	Support/Oppose	Reasons	Decision Sought
Section 4 Policy: 4.13	Oppose in part	4.13(e)(ii) F&B queries whether any discharges of contaminants should be provided for, in waterbodies where the water quality standards are not met. The use of the term 'priority' is confusing. It is good that the change seeks to halt degradation of waterbodies not listed in Schedule 5 but difficult to understand how the 'priority' would work. Council should be seeking to halt degradation in any receiving waterbody. First and second priorities also relate to CWMS targets.	Ensure that this policy aims at halting degradation of any receiving waterbody. Consider deleting second priority.