

IN THE MATTER OF The Resource Management Act
1991

AND

IN THE MATTER OF Proposed Plan Change 4 to the
Proposed Canterbury Land and
Water Regional Plan

STATEMENT OF ELLESMERE SUSTAINABLE AGRICULTURE INCORPORATED

29 January 2016

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1. INTRODUCTION

- 1.1 This statement is provided in support of submissions and further submissions lodged on Proposed Plan Change 4 (hereafter referred to as 'PC4') to the Partly Operative Canterbury Land and Water Regional Plan (hereafter referred to as 'CLWRP') by Ellesmere Sustainable Agriculture Incorporated (hereafter referred to as 'ESAI').
- 1.2 Committee members of ESAI will be available to answer questions during the time allocation period at the hearing and provide some supporting information relating to this statement. The statement structure follows the section headings used in the Section 42A Officer's Report and comments on the submissions of ESAI and other relevant submitters, and the Officer's recommendations.

2. BACKGROUND OF THE SUBMITTER

- 2.1 ESAI is made up of approximately 120 farming members located between the Rakaia and Selwyn Rivers and east of State Highway 1 to the east coast. This area is located within the existing Rakaia Selwyn Groundwater Allocation Zone, Selwyn-Waihora Nutrient Allocation Zone and Little Rakaia Nutrient Allocation Zone under the provisions of the CLWRP. It encompasses the rural areas known as Irwell, Doyleston, Leeston, Lakeside, Sedgemere, Southbridge, Killinchy and Little Rakaia, which are commonly referred to collectively as 'Ellesmere'. **Annexure A** attached shows the location of this area.
- 2.2 ESAI was formed in 2009 (which until July 2015 was formerly known as the Ellesmere Irrigation Society Inc) in order to provide a collective representation on water related issues, predominantly in respect to irrigation and the protection and maintenance of the water resource, both ground and surface water. Last year ESAI widened its representation to include other areas of concern to agriculture and the environment beyond those strictly relating to water.
- 2.3 Members of ESAI are predominantly 'family farmers'. They are farmers who have owned and managed the same property for several generations and have a natural affinity to the land, its use and its protection. Traditionally these types of farmers have engaged in long-term farming practices that utilise environmentally sustainable farming systems. They perceive farming as a long-term plan to retain their heritage and livelihood so that it can be progressed through future generations. A key characteristic of the family farmer is operating in an efficient and caring manner with strong environmental ethics and stewardship. Family farms are predominantly financed through production from the farm itself and are not subject to many off-farm shareholders or corporate investment. Finance and production is very carefully managed. Inefficient use of fertiliser or water is considered costly and used sparingly under stringent and precise management and application systems. Historically, the family farmer cares greatly for their farm, its produce, livestock and surrounding environs. They have high level expertise and acquired local knowledge which is vastly comprehensive. The farm is seen as not only an asset to the owner but also to the community and its immediate physical and social environment; all of which it aims to protect and maintain to its highest quality.

ESAI Committee

2.4 The ESAI Committee presently consists of nine elected members:

Mr Simon Osborne Chairman, also member of the Leeston Drainage Committee and arable farmer at Leeston;

Mr Stuart McPherson Vice Chairman, arable farmer at Sedgemere, Committee Member of Ellesmere Agricultural and Pastoral Association;

Mr David Birkett Treasurer, also Chairman of the Board of Directors of the Foundation for Arable Research (FAR), Vice Chairman of the Herbage Seed Section of Federated Farmers NZ, Member of the Seed Quality Management Authority Board, Committee Member of Ellesmere Agricultural and Pastoral Association and arable farmer at Leeston;

Mrs Carey Barnett Secretary, previously had professional experience as: an Environmental Planner for the Selwyn District Council (four years – Team Leader Consents); and Senior Planner and Principal of environmental consulting firm Boffa Miskell Limited (nine years), currently member of the Harts Creek Restoration Committee, part of arable farming partnership at Lakeside;

Mr Geoff Heslop Committee Member, Vice Chairman of Blackcurrants New Zealand, Past-President of the Ellesmere Agricultural and Pastoral Association, arable and blackcurrant farmer at Brookside;

Mr Craig Croft Committee Member and Communications, arable farmer at Lakeside and Assistant Principal of Shirley Boys High School;

Mr Stuart Stephens Committee Member, Director of Blackcurrants New Zealand, Committee Member of Ellesmere Agricultural and Pastoral Association, and arable and blackcurrant farmer at Irwell;

Ms Jo Jermyn Committee Member and Publicity Officer, previously Communications Manager at Merino Inc, previously Media Coordinator at PGG Wrightson Seeds, arable farmer at Southbridge;

Mr Chris Green Committee Member, dairy farmer at Killinchy; and

Mr Tim Chamberlain Committee Member, organic arable and mixed farmer at Lakeside.

2.5 Some of the above ESAI Committee will be present and available at the hearing to provide further information and/or answer questions from the Hearing Commissioners.

Overriding Concerns

- 2.6 ESAI has a significant interest in the management of the social, economic and physical environment at the local, regional and national level. In this regard it has been an active entity in recent years being involved in many different focus groups, consultation and submitting on the numerous documents that aim to regulate and deal with environmental effects. ESAI is also proactive in consulting with other interest groups and stakeholders that have similar interests in the environment.
- 2.7 ESAI is concerned that there has been no consultation undertaken with directly affected parties or farming representative groups prior to the notification of PC4. This is a disappointing outcome given the progress that had been made through the consultation phases of the CLWRP and Variation 1 development.
- 2.8 Another critical issue for ESAI is ensuring that PC4 provides a robust, practical and appropriate framework in which to not only protect all facets of the environment – including social, economic, cultural and physical, but at the same time be relevant and work in practice.
- 2.9 Agriculture in the Canterbury region contributes substantially to New Zealand’s overall production, and as a consequence the economic viability of the country as a whole. The Ellesmere area includes a variety of agricultural land uses such as arable (wheat, barley, ryegrass, clover, small seed such as radish, carrot, kale), vegetables for market, blackcurrant and berry crops, sheep, beef and dairy. All of these uses require sustainable farming and environmental practices.
- 2.10 What has been evident in the past is the large disparity between how farming activities operate on the ground and the application of the rules that regulate any adverse environmental effects. In other words, the implementation of regulations that do not 'marry up' easily with what happens practically in the physical and farming environment. The rules tend to regulate in a way that makes it difficult to operate and implement 'on the ground'. ESAI is concerned that some aspects of PC4 could lead to further disparities between regulation drafting and on-farm practice.

3. SUBMISSIONS AND COMMENTS ON SECTION 42A OFFICER RECOMMENDATIONS

- 3.1 For ease of interpretation the following part of this statement follows the structure set out in the Section 42A Officer's Report in addressing the various parts of PC4 that ESAI has submitted on and as summarised by the Officer in Section 2.16, Table 1 on pages 38 and 39 of that report.

Category A – Inanga Spawning Sites and Inanga Spawning Habitat

ESAI submitted on the following relevant provisions in this reporting category:

Definition	'Inanga Spawning Habitat'
Policy 4.31	Livestock Exclusion from Waterbodies
Policies 4.86A and B	Activities in Beds of Lakes and Rivers
Rule 5.71	Stock Exclusion
Rules 5.136 – 5.141	Structures
Rules 5.148, 5.151 and 5.152	Gravel from Lake and Riverbeds
Part of Rule 5.163	Vegetation in Lake and Riverbeds
Part of Rules 5.167, 5.168, 5.169 and 5.171	Earthworks and Vegetation Clearance in Riparian Areas
Schedule 17	Salmon and Inanga Spawning Sites
Maps	B-066 and B-076 and all maps

- 3.2 As stated in the submission, ESAI has opposed the insertion of inanga spawning sites and habitat until such time as there has been consultation with the various adjoining landholders and all stakeholders that may be affected by these provisions. ESAI is increasingly concerned that no consultation is being undertaken with landholders and various other parties that may be affected by further regulations in their immediate or wider environment. While PC4 has been notified as an 'Omnibus' plan change and signified more as a 'tidy up' of provisions that needed further attention, they may still have significant impacts on a wide variety of stakeholders and it is disappointing that all these parties were not afforded an opportunity to provide helpful input into the drafting of these provisions prior to public notification.
- 3.3 ESAI fully respects the interests of Tuia (A partnership between the CRC and Nga Runanga), Te Taumutu Runanga, Department of Conservation and Fish and Game and how these interests are relevant to the location of inanga spawning sites and habitats and the importance of these sites and habitats. However, there has been no regard given to those other parties that occupy land either adjacent to or within the sites/habitat and how the insertion of these provisions will affect them. It is the view of ESAI that any changes to the wording of provisions could have been addressed through a wider consultation phase.

A. Definition of 'Inanga Spawning Habitat'

- 3.4 The Reporting Officer recommends changing the definition of inanga spawning habitat based on other submissions to the following:

*"Means that part of the bed and banks of a lake, **permanently or intermittently flowing river or artificial watercourse**, coastal lagoon or wetland that is between mean high water springs and mean low water neaps and is within the area identified as 'inanga spawning habitat' on the Planning Maps".*

An additional definition for an inanga spawning site is also recommended by the Officer:

*"Means that part of the bed and banks of a lake, **permanently or intermittently flowing river or artificial watercourse**, coastal lagoon or wetland that is between mean high water springs and mean low water neaps and is within the area identified as 'inanga spawning site' in Schedule 17 and on the Planning Maps".*

- 3.5 ESAI has considered these recommendations, putting aside the main concern that no consultation has been undertaken with all affected parties. ESAI's further concern lies with the addition of "permanently or intermittently flowing....artificial watercourses" which has been recorded as being inserted by virtue of the Federated Farmers submission. Federated Farmers submission calls for a case-by-case consideration of waterbodies that may be affected by such provisions and a determination made on that basis. ESAI considers that this request is appropriate based on the omission of consultation with parties that have artificial watercourses on their land which are in private ownership and may not sustain flowing water for the most part of any given year and unlikely to contain suitable spawning habitat. The Technical Memorandum from M Greer and J M Tompkins attached to the Officer's Report further confirms that ephemeral artificial watercourses were unlikely to provide habitat for inanga spawning.
- 3.6 ESAI considers also that the size, location and scale of the shaded habitat areas on the Planning Maps will be difficult to interpret in practice when considering their accuracy in relation to drains and will in turn result in further regulation and cost to the landholder where it is not necessary.
- 3.7 It is considered that there is no need to consider any artificial watercourses in these provisions as they only flow periodically during times of high rainfall and for short lengths of time, for example possibly only for one to two days at a time and remain dry for the majority of the year. However, ESAI considers that for known flowing streams or rivers that flow on a permanent or mostly permanent basis then this would be more acceptable. ESAI therefore suggests the following wording of the definitions proposed by the Officer:

Definition of inanga spawning habitat -

*"Means that part of the bed and banks of a lake, **permanently or intermittently flowing river, or** ~~artificial watercourse~~, coastal lagoon or wetland that is between mean high water springs and mean low water neaps and is within the area identified as 'inanga spawning habitat' on the Planning Maps".*

An additional definition for an inanga spawning site is also recommended by the Officer and ESAI proposes the following amendment:

“Means that part of the bed and banks of a lake, permanently or intermittently flowing river or artificial watercourse, coastal lagoon or wetland that is between mean high water springs and mean low water neaps and is within the area identified as ‘inanga spawning site’ in Schedule 17 and on the Planning Maps”.

- 3.8 ESAI notes that it is still concerned that even with these amendments consultation with landholders should be undertaken to determine the exact location of any of these waterbodies where they occur on private land.

B. Policy 4.31 Livestock Exclusion from Waterbodies

- 3.9 With the proposed ESAI amendment to the definition of inanga spawning habitat this would assist with the application of Policy 4.31. The Officer has not recommended any changes to this policy. ESAI has supported the submission of Federated Farmers on this policy where they have proposed to amend Policy 4.31 (ba) as follows:

‘(ba) excluding stock from permanently flowing waterways located within the areas identified as inanga spawning habitat on the planning maps during 1 January to 1 June inclusive;’

- 3.10 ESAI further proposes that this wording should be brought in line with the now proposed definitions by stating:

‘(ba) excluding stock from permanently and intermittently flowing lakes, rivers, coastal lagoons and wetlands within the areas identified as inanga spawning habitat on the Planning Maps during 1 January to 1 June inclusive;’.

C. Policies 4.86A and 4.86B Activities in Beds of Lakes and Rivers

- 3.11 The Officer has not recommended any changes to these provisions beyond the amendments proposed to the inanga spawning habitat definition. For further clarity, ESAI now proposes the following wording amendments to ensure the policies relate to the areas that form part of a bed of a waterbody and not beyond mean high water springs and to those areas only that are marked on the Planning Maps as suggested in Trustpower’s submission. This would ensure clarity as to the outer boundary to which the provisions apply; being no further than mean high water springs.

4.86A Inanga spawning sites are protected through, as a first priority, avoiding activities within the beds and below mean high water springs~~margins~~ of lakes, rivers, hapua, wetlands, coastal lakes and lagoons as shown on the Planning Maps and in Schedule 17 that may damage inanga spawning sites, and where these activities cannot be avoided, the use of best practicable options to minimise all impacts.

4.86B Within the beds and ~~margins~~ **below mean high water springs** of lakes, rivers, hapua, wetlands, coastal lakes and lagoons, damage to inanga spawning habitat **as shown on the Planning Maps** is minimised by scheduling works to occur outside the inanga spawning period of 1 March to 1 June inclusive where it is practicable to do so, and by extending this period to 1 January to 1 June inclusive, where the works involve vegetation clearance or earthworks, so as to allow sufficient time for regeneration of the habitat.

3.12 While this is only a minor change it does clarify where these policies should specifically apply and will create consistency throughout the plan.

D. Rules 5.71 Stock Exclusion, 5.136-5.141 Structures, 5.148, 5.151 and 5.152 Gravel from Lake and Riverbeds

Rule 5.71 Stock Exclusion

3.13 ESAI agrees with the concerns of other submitters that the inanga spawning habitats need further investigation as to whether they are actually sites of known habitat or just sites that are considered 'suitable' habitat. This is important as the imposition of such rules and the status of any non-compliance to a degree of 'prohibited' could have significant implications on landholders.

3.14 The wording of Rule 5.71 as proposed in PC4 reads as follows:

The use and disturbance of the bed (including the banks) of a lake or river by any farmed cattle, farmed deer or farmed pigs and any associated discharge to water is a prohibited activity in the following areas:

1. *In an inanga or salmon spawning site listed in Schedule 17, or **undertaken in any inanga spawning habitat during the period of 1 January to 1 June inclusive**; or*
2. *Within a ~~Group~~ or Community Drinking-water Protection Zone as listed in Schedule 1; or*
3. *Within 1,000m upstream, in the bed of a lake¹ river, of a fresh water bathing site listed in Schedule 6; or*
4. *In the bed (including the banks) of a Spring-fed plains river, as shown on the Planning Maps.*

3.15 The proposed change to point 1 is problematic in practice as it brings into possible consideration areas that are shown as inanga spawning habitat that are not lakes or rivers. In addition, the first part of the rule relates to the bed and banks of a lake or river and again this differs from other terms that exist in the Plan i.e. mean high water springs and margins. There should be complete consistency among these references in the Plan. It is noted though that PC4 does not propose changes to the header part of this rule. There should also be consistency throughout the provisions as to exactly what areas are being regulated i.e. is it permanently flowing rivers, lakes, streams, lagoons etc. or other variations.

¹ Punctuation as shown in PC4 document.

- 3.16 In the first instance, ESAI considers that the proposed change to Rule 5.71 point 1 should be deleted as it confuses the wider ambit of the rule and also needs to have substantiated the exact location of known inanga spawning habitat. As a secondary and less favoured alternative ESAI suggests point 1 of the rule could be amended as follows:

The use and disturbance of the bed (including the banks) of a lake or river by any farmed cattle, farmed deer or farmed pigs and any associated discharge to water is a prohibited activity in the following areas:

1. *In an inanga or salmon spawning site listed in Schedule 17, or undertaken in any part of a permanently or intermittently flowing lake or river located in a inanga spawning habitat as shown on the Planning Maps during the period of 1 January to 1 June inclusive; or*

...

Rules 5.136-5.141 Structures

- 3.17 ESAI again opposed these rules based on the lack of consultation with directly affected parties. It retains this stance, although noting that should the proposed changes suggested by ESAI be considered appropriate, then ESAI suggests these rules should also be amended to relate to: **permanently or intermittently flowing lakes or rivers located in inanga spawning habitats as shown on the Planning maps.**

Rules 5.148, 5.151 and 5.152 Gravel from Lake and Riverbeds

- 3.18 ESAI suggests these rules be amended as follows on the basis of the other recommended changes to provisions above and the reasons for them:

Rule 5.148 point 9 -

9. *The activity is not undertaken in an inanga or salmon spawning site listed in Schedule 17, or in any permanently or intermittently flowing lake or river located in inanga spawning habitat as shown on the Planning Maps during the inanga spawning season of 1 March to 1 June inclusive.*

Rule 5.151 point 1 –

1. *The activity is not undertaken in an inanga or salmon spawning site listed in Schedule 17, or in any permanently or intermittently flowing lake or river located in inanga spawning habitat as shown on the Planning maps during the inanga spawning season of 1 March to 1 June inclusive.*

Rule 5.152 point 2 –

2. *The discharge is not undertaken in an inanga or salmon spawning site listed in Schedule 17, or in any permanently or intermittently flowing lake or river located in inanga spawning*

habitat as shown on the Planning maps during the inanga spawning season of 1 March to 1 June inclusive.

E. Schedule 17 - Salmon and Inanga Spawning Sites

- 3.19 As previously stated, ESAI opposed the inclusion of the sites in Schedule 17 because of the lack of consultation taken with all the directly affected land holders. ESAI has now also had the benefit of reading the Technical Memorandum contained in Appendix B of the Section 42A Officer Report compiled by M Greer and J M Tompkins. This memorandum confirms the concerns ESAI has in relation to the inclusion of ephemeral artificial watercourses/drains within the inanga spawning habitat areas shown on the Planning Maps. The information from Greer and Tompkins clearly states in response to Fulton Hogan's submission:

"The uncertainty in the model presented in the S32 report arises from the fact that flow regime could not be accounted for, and ephemeral and permanently flowing waterways were treated the same. This meant that ephemeral waterways could be mapped as spawning habitat, even though spawning is unlikely to occur. It cannot be stressed enough that the potential for potential spawning habitat to be misidentified because of this uncertainty is limited to ephemeral waterways and the model does accurately predict spawning habitat in permanently flowing waterways.

The section of the S32 report cited by Fulton Hogan is a summary of information presented in section 4.3 of the appended technical report which discusses the source and implications of uncertainty in the model. In the technical report it is stated that the uncertainty only exists around the spawning habitat predicted in ephemeral waterways. However, this key message was omitted from the summary in the S32 report.

Recommendation: *Ephemeral reaches of waterways within the mapped area are unlikely to provide spawning habitat, they should not be subject to the same rules as intermittent and permanent reaches."*

This response is further reiterated in the memorandum in response to Federated Farmers, Dairy NZ and Fonterra's submissions.

- 3.20 ESAI concurs with the advice provided in the memorandum and considers that the Schedule needs to be amended and that the rules relating to inanga spawning sites and habitats need to relate to permanently and intermittently flowing waterbodies and not ephemeral waterbodies. ESAI is not aware of any artificial watercourses in the Ellesmere area that are permanent or intermittently flowing and no artificial watercourses in Ellesmere are listed as Inanga Spawning Sites in Schedule 17. ESAI's previous suggested rewording of provisions reflects this recommendation.

F. Planning Maps B-066 and B-076 and all maps.

- 3.21 ESAI opposed the inclusion of the inanga spawning sites and habitats shown on the Planning Maps because of the lack of consultation undertaken with all the directly affected land holders. ESAI retains this position for the same reasons and those reasons mentioned in Section E above

regarding the validity of the modelling used for this mapping. The mapping needs to be accurate and exclude all artificial watercourses and ephemeral waterbodies.

Category E – Dewatering and Drainage Water

3.22 ESAI has opposed the proposed wording of the definitions of ‘Drainage System’ and ‘Drainage Water’ along with Rules 5.75 to 5.80 relating to Drainage Water. ESAI is concerned about these provisions for the following reasons:

1. This will be the third time in three years that ECan has visited these same definitions and rules in a regional plan. ESAI is concerned that there is a continual redefining of these provisions without considering what this means in practical farming terms and how such changes will affect farming operations;
2. No consultation has been undertaken with directly affected parties;
3. ESAI questions if there has been any site specific technical research on particular drains undertaken to determine the level of contamination that exists within drainage water in the rural environment in the Canterbury region; and
4. The rules could potentially result in one landholder being responsible for the consenting of the drainage of large proportions of the region’s catchment by virtue of being the owner of the land from which a drain may discharge into a stream, river or lake at times of high water table regardless of where a particular contaminant is coming from.

A. Definition of ‘Drainage System’

3.23 The definition of ‘Drainage System’ is proposed to be substantially changed and extended in PC4. Drainage systems have been determined to be for the purpose of: 1. Collecting or draining water and contaminants from agricultural or rural land; or 2. Controlling or permanently lowering the water table, and which conveys and discharges that water and contaminants to land or surface water. It is separated from the definition of ‘stormwater’. It is noted that the proposed definition of ‘reticulated stormwater system’ makes no reference to contaminants even though such a system will be taking water from residential, commercial, industrial and business zones.

3.24 Whether drainage systems carry contaminants or not is a matter for the rules to address not the definition itself. In addition, the definition is unclear as to what is classified as rural or agricultural land. There are many uses within rural locations that are neither rural nor agricultural in character i.e. transport businesses, small industrial businesses, processing plants, lifestyle blocks. The distinction in the definition needs to relate to district plan zonings and not a broad character or locational term. This way drainage of rural residential developments not associated with larger residential towns or townships could be addressed appropriately.

3.25 ESAI supports the submission of Horticulture NZ which also considers the amendment to this definition should be deleted.

3.26 As previously conveyed to the Hearing Commissioners, drains in rural zoned land in Ellesmere were constructed in the late 1800's to early 1900's for the purpose of draining the plains area for agricultural production. This was permitted and encouraged in order to assist the settlement of the country and provide produce for domestic use and export. Drainage systems were never setup nor primarily operate today for the purpose of draining contaminants. They were constructed for the sole purpose of intercepting the groundwater table during high rainfall periods and remain largely dry both in winter and summer. Drainage of 'contaminants' is contrary to good farming practice, meaning that nutrients were being wasted and causing a significant loss to production. In the first instance, it is not in the interest of a farming enterprise to move nutrients off-farm for production purposes, let alone the wider environment.

3.27 In lieu of deleting the amendments proposed by PC4, ESAI proposes the following re-wording of this definition as follows:

'Drainage System

Means a surface or subsurface pipe or channel or canal system that has been constructed for the purpose of:

1. *Collecting or draining water from land; or*
2. *Controlling the groundwater table;*

And conveys and discharges water to land or surface water. It excludes any system that has been constructed for the purpose of collecting, conveying or discharging stormwater'

3.28 The above wording excludes the need for this definition to relate to rural or agricultural land. It removes the reference to contaminants as that is a matter to be addressed by the rules. The Reporting Officer does not propose any changes to the definition.

B. Definition of 'Drainage Water'

3.29 ESAI opposes the proposed changes to the definition of 'Drainage Water' for similar reasons as set out above. ESAI has proposed deleting the proposed changes to the definition along with Horticulture NZ. In lieu of deleting these amendments ESAI proposes the following wording of the definition:

'Drainage Water

Means water arising from the drainage of water from the soil profile, or excess surface water from land that is not serviced by a reticulated or non-reticulated stormwater system. It excludes stormwater and sediment-laden water which are separately defined.'

C. Rules 5.75 to 5.80 Drainage Water

3.30 Because of the proposed change to the definition, the rules now firmly place onerous requirements on landowners or drainage system controllers. These stakeholders who are at the end of the drainage system would be responsible for any consenting requirements even though

what is being drained may relate to an entire catchment and in many parts of the region will be dealing with stormwater runoff from residential, commercial and industrial properties and potentially council stormwater systems. The Selwyn District Council has stormwater systems that discharge to drains and/or streams, e.g. Leeston, Southbridge and Doyleston townships.

- 3.31 The proposed wording of these rules is untenable in practice and the Reporting Officer has also raised concerns about this in paragraphs E.30 to E.33 (page 84) of his report. However, no changes to the wording proposed by PC4 are recommended in the report. ESAI agrees with his concerns and that it would be inappropriate to agree to the requests made by other submitters who desire even further restrictions within these rules.
- 3.32 Under the provisions of Variation 1, the requirement for Farm Environmental Plans will result in the location of drains to be submitted to Environment Canterbury and their consequential auditing. Where any contamination risk might be identified then improvements, any necessary buffer areas and on-farm practices will ensure minimisation of contaminant loss. In relation to dairy operations these are already covered by the various discharge consents required for such activities. Therefore the need for consents for farm drainage becomes unnecessary.

Category F – Bores

Definition of a ‘Bore’

- 3.33 ESAI opposed the proposed definition of a ‘bore’ on the basis that it did not recognise bores other than for geotechnical investigations. ESAI was concerned that there were other types of investigation bores that were not included, for example hydrological and environmental investigation. The reporting officer has recommended adding the term ‘hydrological’ to the definition and ESAI agrees with this recommendation.

Category H – Vegetation and Earthworks

Definition of ‘Vegetation Clearance’; Policy 4.85A Activities in Beds of Lakes and Rivers; Rule 5.163 Vegetation in Lake and Riverbeds; Rules 5.167 to 5.169 and 5.171 Earthworks and Vegetation Clearance in Riparian Areas

- 3.34 ESAI’s main concern with these provisions is that they are now subject to a date at which the property became ‘production land’. The reference to a date is irrelevant as the cultivation and harvesting on land that might be created as ‘productive land’ after 5 September 2015 would be minimal and contentious when applying the rule.
- 3.35 The Reporting Officer has recommended amending this definition by adding ‘forestry’ as an activity that should be excluded from vegetation clearance but recommended that the date remain. He has also provided an option as an alternative definition but is less supportive of it; tying it to a twenty year period.
- 3.36 ESAI has considered the recommendation and the reasoning behind the use of the term ‘production land’ and the insertion of the date. The preamble to Category H in the Officer’s

Report explains the reasoning for the provisions. Largely, it explains that they are to “curtail existing farming operations that have encroached into” braided rivers that have significant biodiversity functions. The aim is to protect these areas and limit the natural hazard risk caused by the variable flows and meandering nature of them.

- 3.37 While these are relevant concerns, ESAI recognises that the policy and rules that then follow are not restricted to braided river systems and therefore become problematic in practice. Many areas of land that are located near the larger braided river edges are owned by both the district councils and regional council and then leased to farmers or other entities, such as schools, for different durations and utilise different land uses on them. The nature and duration of these leases could well conflict with the date proposed in the definitions. The mechanisms used here to address the issue of inappropriate land use activities along braided river beds, would be better addressed in a more specific set of rules relating to the specific rivers of concern, a zoning established or activity overlay on the planning maps applied. Consultation with the directly affected parties to determine exactly how these matters might be best addressed would also benefit. This would be more valuable to all parties and would eliminate unnecessary provisions being attributed to every waterbody where the issues largely do not exist. The various councils could also manage these areas via their own property arrangements and lease agreements which could also reduce the need for regulatory intervention.

A. Definition of ‘Vegetation Clearance’.

- 3.38 ESAI supports the inclusion of the word ‘harvesting’ to the definition of ‘vegetation clearance’ but opposes the retention of the date reference in it. ESAI retains this position and further does not support the alternative definition of ‘Earthworks’ provided by the Officer in paragraph H.30 of his report. This alteration further complicates that definition and ESAI would not support such a change to the definition of ‘vegetation clearance’.
- 3.39 ESAI has given thought to any other alternatives to this definition and considers that the best approach is to create a definition, policy and rules that relate to the issue that is of concern, that being vegetation clearance activities along braided rivers, and devise specific mechanisms to deal with it rather than the broad brush approach that has been proposed here.

B. Policy 4.85A Activities in Beds of Lakes and Rivers.

- 3.40 ESAI opposed this Policy 4.85A because of its general relationship with the definition of ‘vegetation clearance’. No specific changes were requested by ESAI to this policy. ESAI wishes to make the following comments on it:
- The policy is intended only for Canterbury’s braided river systems and should only relate to those specific rivers and lakes;
 - Points (a) and (b) of the policy need to also relate specifically to the relevant braided river, lake, wetland and coastal lagoon. This policy is not for rivers, lakes, wetlands and coastal lagoons that are not part of a braided river system.

C. Rule 5.163 Vegetation in Lake and Riverbeds.

3.41 ESAI opposed point 7 of this rule for two reasons:

1. Because of the insertion of the date within the definition of 'vegetation clearance' and
2. The lack of consultation with directly affected parties in relation to inanga spawning site and habitat locations.

3.42 If the definition of 'vegetation clearance' was to exclude the date reference then ESAI's concerns would be significantly reduced. It would reduce further if it was made clear in the plan provisions that artificial watercourses were not considered relevant to this rule.

3.43 Given the above, ESAI suggests the following amendment to Rule 5.163 point 7:

'Vegetation clearance does not occur in a permanently or intermittently flowing lake or river located within an inanga or salmon spawning site listed in Schedule 17, or ~~undertaken in any~~ inanga spawning habitat as shown on the Planning Maps during the period of 1 January to 1 June inclusive.'

D. Rules 5.167 to 5.169 and 5.171 Earthworks and Vegetation Clearance in Riparian Areas

3.44 Again, ESAI is largely opposed to the amendments to these rules because of the date proposed to be inserted in the definition of 'vegetation clearance' and the lack of consultation on the location of inanga spawning habitat and how they relate to artificial watercourses. The Reporting Officer has not recommended any changes to these provisions.

3.45 ESAI proposes the following changes to these rules:

Rule 5.167 point 4:

'The vegetation clearance does not occur adjacent to a permanently or intermittently flowing lake, river or wetland located within a salmon or inanga spawning site listed in Schedule 17 or ~~undertaken in any~~ inanga spawning habitat as shown on the Planning Maps during the period of 1 January to 1 June inclusive.'

Rule 5.168 point 3:

'The activity does not occur adjacent to a ~~significant spawning reach for~~ permanently or intermittently flowing lake, river or wetland which is located within a salmon or ~~an~~ inanga spawning site listed in Schedule 17 or in any inanga spawning habitat as shown on the Planning Maps during the period of 1 January to 1 June inclusive.'

Rule 5.169 point 3:

'The actual and potential adverse environmental effects on the quality of water in permanently or intermittently flowing rivers, lakes or ~~artificial watercourses or~~ wetlands; and'

3.46 ESAI recognises that this is different to the relief originally sought in its submission but that this is now the preferred option and would constitute a consequential amendment. The removal of

artificial watercourses is recommended as the header part of the rule only relates to rivers, lakes and wetlands and therefore artificial watercourses cannot be introduced further below this rule.

- 3.47 Rule 5.171 point 2 is recommended to be consistent with the proposed amendment to Rule 5.169 stated above and should also have reference to artificial watercourses removed.

Amend Rule 5.171 point 2 as follows:

*'The actual and potential adverse environmental effects on the quality of water in **permanently or intermittently flowing** rivers, lakes or ~~artificial watercourses or~~ wetlands; and'*

Category O – Water Takes and Water Supply Strategies

Rules 5.123 Take and Use Surface Water and 5.128 Take and Use Groundwater

- 3.48 ESAI has opposed the addition of 'Matter of Discretion' 13 in Rule 5.123 Take and Use Surface Water and 'Matter of Discretion' 11 in Rule 5.128 Take and Use Groundwater which states in both cases:

'Where the water is to be used for irrigation, the preparation and implementation of a Farm Environment Plan in accordance with Schedule 7 to manage the effects arising from the use of the water.'

- 3.49 The Reporting Officer has not recommended any changes to these provisions as a result of submissions. ESAI's position in relation to these changes remains the same in that it requests these provisions be deleted. This is because nutrient management rules are contained within the relevant various sections of the CLWRP and the subsequent sub-regional plans. Those provisions more clearly state when a Farm Environment Plan is needed and incorporates the use and efficiency of irrigation water and also relates to dry land operations. There is no need for this to be a further assessment under consents for the use of ground or surface water. It will add to the cost of implementation and consent processing; especially when applications for minor consent condition changes are made or applied for.

Ellesmere Sustainable Agriculture Incorporated
29 January 2016

ANNEXURE A: Ellesmere Sustainable Agriculture Inc. Area

