

IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of the hearing of submissions on Proposed
Plan Change 4 (Omnibus) to the partly
operative Canterbury Land and Water Regional
Plan

BY **THE WAITAKI IRRIGATORS COLLECTIVE
LIMITED**
Submitter

TO **CANTERBURY REGIONAL COUNCIL**
Local authority

**STATEMENT OF EVIDENCE OF ELIZABETH JANET CASWELL SOAL ON BEHALF OF
THE WAITAKI IRRIGATORS COLLECTIVE LIMITED**

Dated: 29 January 2016

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INTRODUCTION

Qualifications and experience

1. My name is Elizabeth Soal. I am employed by the Waitaki Irrigators Collective Limited ("WIC") as its Policy Manager.
2. I hold the qualifications of a Bachelor of Laws, and a Bachelor of Arts with Honours (First Class) and Master of Arts in Politics, all from the University of Otago. I am currently studying towards a Doctor of Philosophy through the Department of Geography at the University of Otago, investigating the effectiveness of collaborative freshwater management and governance programmes. I am a member of the New Zealand Institute of Primary Industry Management and a Director of Irrigation New Zealand Incorporated.

SCOPE OF EVIDENCE

3. The evidence provided to you today from the WIC representatives will not cover every point made in the Collective's submission on Plan Change 4 to the Canterbury Land and Water Regional Plan (PC4).
4. My evidence will address the following points:
 - a) providing some information about WIC, its members, and introducing the evidence being submitted by our other witnesses;
 - b) Rule 5.68A stock exclusion and the definition of a braided river bed;
 - c) the designation of the Lower Waitaki River as a salmon spawning site in Schedule 17; and
 - d) the location of the inanga spawning site at the mouth of the Waitaki River in Schedule 17.

ABOUT THE WAITAKI IRRIGATORS COLLECTIVE LIMITED

5. WIC is a company which represents the interests of six irrigation schemes and independent irrigators in the Lower Waitaki River catchment. Our shareholders take water from Lake Waitaki, the Lower Waitaki River, its tributaries, and connected groundwater, and use that water to irrigate approximately 75,000 hectares of land across North Otago and South Canterbury, which is approximately 12 per cent of irrigated land in New Zealand.

6. The irrigators within WIC contribute approximately \$550 million per annum in gross income to the local and national economies, and represent a capital value of land (with infrastructure) in excess of \$2.5 billion.
7. WIC's role is not operational (although it may facilitate technical or operational projects), but is to lead the development of an integrated social contract between the irrigators and the wider Waitaki community of interest, whilst promoting the interests of its members. In this regard, WIC seeks to advocate on behalf of all irrigators in the Lower Waitaki River catchment on common issues.
8. The schemes and individuals within WIC use irrigation water for production across the primary sector, including the agriculture, horticulture, dairying, and viticulture industries. Some of the schemes also provide water for livestock, industrial/commercial use, domestic supplies, sports clubs (for irrigation), and fire-fighting.
9. The shareholders of WIC are:
 - the Kurow-Duntroon Irrigation Company Limited;
 - the North Otago Irrigation Company Limited (NOIC);
 - the Morven, Glenavy, Ikawai Irrigation Company Limited;
 - the Maerewhenua District Water Resource Company Limited;
 - the Lower Waitaki Irrigation Company Limited (LWIC); and
 - the Waitaki Independent Irrigators Incorporated Society (WIII). The Haka Valley Irrigation Company Limited is a member of WIII.
9. All of WIC's members have water abstraction permits within the Canterbury Region. LWIC and NOIC use that water within the Otago Region.

STOCK EXCLUSION

Flood control vegetation

10. New Rule 5.68A provides that the bed of a braided river includes an area to the "outer edge of any flood protection vegetation owned or controlled by the Canterbury Regional Council (ECan) for flood protection purposes" or 50 metres either side of the outer gravel margin (if no such ECan owned/controlled flood control vegetation exists).
11. As stated in our submission, the double use of the words "flood protection" does not add anything to the Rule. It is also noted that "flood protection vegetation" is undefined, whereas "defence against water" is a defined term and is used

elsewhere in the Plan. The definition of this term includes "vegetation (including anchored tree protection)".

12. WIC submits that the definition of the "bed" should be amended to include the outer margin of flood protection vegetation that is owned or controlled by an entity other than ECan. This could be a private landowner or a public agency such as the Department of Conservation. This would encourage landowners to invest in and develop such vegetation in the berm areas of the River.
13. Under the current rule framework, a farmer may wish to introduce some flood protection vegetation to: (a) decrease his or her farmland's risk of erosion or inundation, (b) increase the area which may be grazed by reducing the stock zone down from 50 metres, and (c) in so doing, improve the flood carrying capacity and health of the braids of the River. However, if ECan is unable to fund such work due to its budgetary constraints, the farmer may wish to develop such protection privately - but this would not change the stock exclusion area.
14. It is accepted that in the case of the Lower Waitaki River, there has been some growth of farmed land within the "berm" area adjacent to the active bed of the River.¹ However, for some farmers this occurred prior to land purchase and now represents a sunk investment cost which should have been assessed in the cost-benefit analysis of the rules. In order to prevent future flood damage to that and neighbouring land, the reintroduction of flood control vegetation adjacent to the active bed in these berm areas should be encouraged. The current rule framework under PC4 effectively discourages private investment in such plantings and instead would encourage a reliance on ECan to undertake such works.
15. WIC submits that the Regional Council should be encouraging landowners to take such steps, due to the multiple benefits which would accrue to the landowner as well as the River and the wider community.

Prohibited activity status

16. New Rule 5.68A proposed under PC4 changes the definition of the bed of a braided river for stock exclusion rule purposes. The proposed change in definition is significant for farmers with land fronting the Waitaki River due to this changing the activity status of grazing in some areas. Virtually the entire Lower Waitaki River (that is, from the Waitaki Dam to the State Highway 1 Bridge) has been deemed a sensitive site for salmon spawning purposes under Schedule 17 to the Plan. This

¹ *Lower Waitaki River Control Scheme Review*, Canterbury Regional Council, March 2015, <http://ecan.govt.nz/publications/Reports/lower-waitaki-river-control-scheme.pdf> accessed on 11 January 2016.

equates to approximately 90 kilometres of land (60 on the north bank and 30 on the south (as the remaining 30 kilometres on the south bank is within the Otago Region)).

17. As per Rule 5.71, this means that grazing cattle, deer, or pigs within 50 metres of the River (if there is no ECan owned/controlled flood protection vegetation in place) is now a prohibited activity. This Rule is the mechanism through which Policy 4.31 is put into effect.
18. WIC accepts that the Lower Waitaki River is an important fishery and holds high values for sport fishing, both at the regional and national levels. However, the new definition of braided river beds and the classification of stock grazing in the new "bed" of such rivers as a prohibited activity has some largely unconsidered implications for those farming on the margins of the River.
19. Policy 4.31 seeks to avoid the negative effects of stock access to the beds of rivers, lakes, and wetlands and sensitive sites. The Policy then provides that intensively farmed stock should be excluded from lakes, rivers, and wetlands, and all stock should be excluded from sensitive sites, and access to lakes wetlands, and rivers should otherwise be limited to stock species that prefer to avoid water.
20. The policy intent is clear and laudable - providing intensively farmed stock access to river beds has significant potential environmental effects. However the way Rules 5.68A and 5.71 are currently framed results in practical difficulties for those farming beside the area with uncertain environmental benefits.
21. Prohibited activity status is the strongest control available under the Resource Management Act 1991, and it is submitted that this is too high a hurdle to be applied in this instance. It is entirely appropriate that there should be some ability to (at least) gain a resource consent for, say, the grazing of cattle within 30 metres of the active margin of the Waitaki River, particularly if there is a vegetative buffer control in place in the berm area, as well as fencing to prevent stock gaining access to the River bed proper.
22. It is noted that the costs and benefits analysis included in the Section 32 report does not identify any costs associated with the change to the definition. It does state at page 19 that some mid-level changes "will result in resource consents being required for some activities that do not require consent under the current rules...there will be resulting costs associated with the consenting process". It does not state that there will be significant costs for some landowners who cannot now gain a resource consent for a previously permitted activity. For farmers with

significant river frontage, productivity will now be lower, production costs higher, and the value of the land will be reduced as a result.

23. Geoff Keeling and Reuben Allan will be providing information relating to the practical and economic implications of the rules to their farming operations. These are just two affected farmers - it should be noted that these issues apply to dozens of others also, and hundreds of hectares of land.
24. WIC therefore submits that Rules 5.68A and 5.71 should be amended as follows:
- a reduction in size of the stock exclusion zone;
 - the ability to gain a resource consent to graze within the 50 metre exclusion zone if suitable protection measures are in place. Although our written submission states that Rule 5.71 should be amended to change "prohibited" to "discretionary", on reflection it may be appropriate to also add into the Rule a list of conditions for when such discretionary status is appropriate, and the activity could remain prohibited in other instances; and
 - a change to the definition of the river bed by including non-ECan owned or controlled flood protection vegetation as the outer measuring point

Schedule 17 - salmon spawning sites

26. Farmers within WIC have expressed repeatedly their concerns with me as to the method through which the Hakataramea and Waitaki Rivers were designated as sensitive sites for salmon spawning. Although there is general agreement that the Rivers are important for salmon spawning, there is concern as to the methodology that was used which ended up defining essentially the entire river area as significant. This designation occurred during the development of the predecessor to the Land and Water Regional Plan - the Natural Resources Regional Plan.
27. Affected farmers have stated that they were advised that the sensitive sites would be more localised and specifically identifiable during the initial consultation undertaken through the NRRP development process. However, the decision outcome was quite different - with the sensitive site classification now applying to over 120 kilometres of adjacent land for the Lower Waitaki River, and 64 kilometres of adjacent land for the Hakataramea River. As stated in our submission, there are many rules and activities in the LWRP tied to sensitive sites, such as Rule 4.31 (livestock exclusion); Rule 5.71 (stock exclusion); Rules 5.136, 5.137, 5.138, 5.139, 5.140, and 5.141 (structures); Rules 5.148, 5.151, and 5.152 (gravel from lake and riverbeds); Rule 5.163 (vegetation in lake and riverbeds); and Rules 5.167 and 5.168 (earthworks and vegetation clearance in riparian areas).

28. In order to ensure that the Schedule 17 site for salmon spawning in the Lower Waitaki River is appropriate, it is submitted that this would be an appropriate matter to be considered by the Lower Waitaki-South Coastal Canterbury Water Management Strategy Zone Committee as part of their sub-regional planning process.

Schedule 17 - inanga spawning sites

29. One significant change under PC 4 is the increase in the number of sites listed in Schedule 17 as being significant due to inanga spawning. As stated in WIC's written submission, the identification of the site at the mouth of the Waitaki River is problematic for two reasons.
30. Firstly, according to Planning Map B-117 (Figure 1, below), the spawning *site* is located within the Otago Region, and the spawning *habitat* extends from the mouth of the Waitaki River north, to include also the confluence of the Waitaki with Whitneys Creek. As the Schedule defines a site as extending to include a 20-metre diameter protection zone, the incorrect description (see below) and location of the site on the Planning Map within the "greyed out" Otago region makes it very difficult for landowners and land managers in this area to determine the application of relevant rules and policies to them.
31. Secondly, the narrative description of the site within Schedule 17 is that it is "140m north of the Box". I do not know of any "Box" which exists at the mouth of the Waitaki River and I could not find any other person who knew of such a box. The nearest "Box" is the Box at the mouth of the Waihao River, which has operated for over one hundred years in order to prevent permanent closure of the mouth of the Waihao River. The Waihao Box is located approximately 22 kilometres north of the Waitaki River (see map in Figure 2, below).
32. Presumably the description doesn't mean that there is one extremely large site extending from the mouth of the Waitaki River to a place 140m north of the Box, as three other sites near the Waihao River mouth and the Box are separately identified in the Schedule.²
33. WIC is not submitting that there is no such site at the Waitaki River mouth. However, this needs to be more clearly identified within the Plan in order that it is identifiable by landowners so that they are able to determine rules that are or are not applicable to them. This should be done by way of an accurate narrative

² Being, respectively, 110m south of the Box, 100m south of Box, and 475m north of the Box.

description, and the site identified on the planning map not being "greyed out" (the boundary between Otago and Canterbury can still be clearly defined).

Figure 1: ECan Planning Map B-117 showing Waitaki River and inanga spawning site (within Otago)

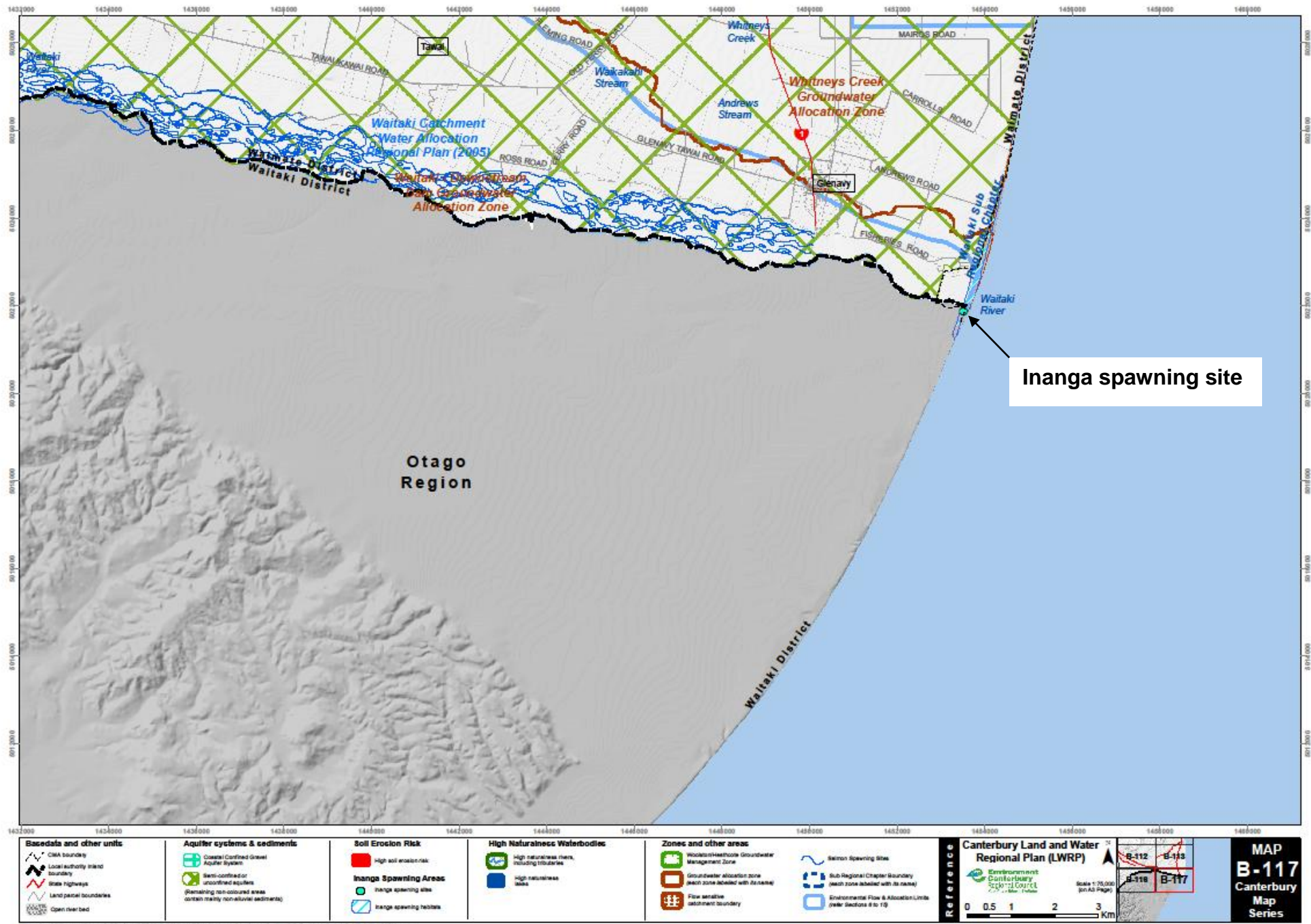
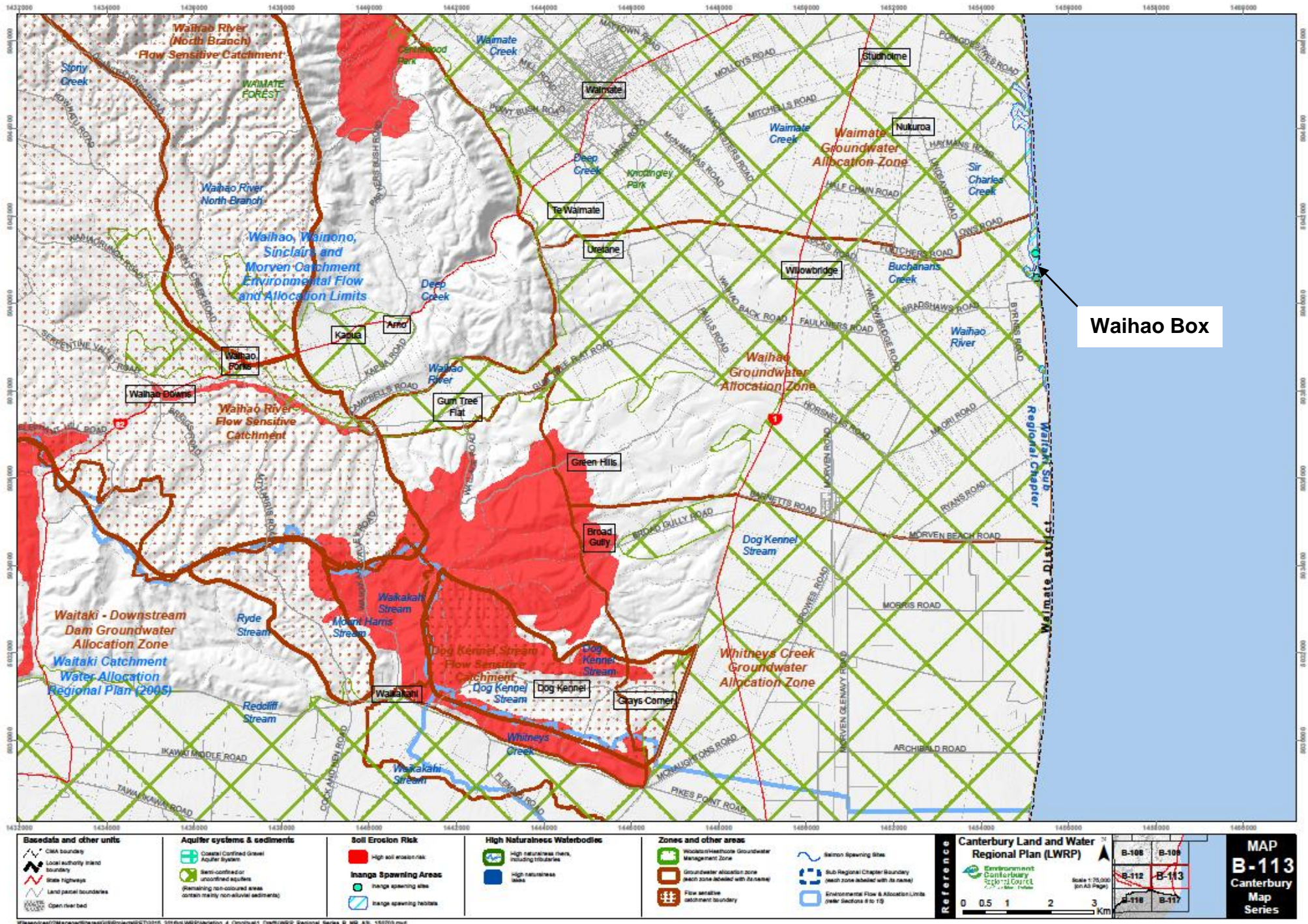


Figure 2: ECan Planning Map B-113 showing Waihao Box location



CONCLUSION

34. The Waitaki Irrigators Collective is supportive of the general intent of the proposed rule changes, but, as stated in our submission and our evidence, we feel that the practical implications of the Rules will create difficulties in implementation for the farmers which were not necessarily anticipated.
35. You will hear shortly from Geoff Keeling and Reuben Allan as to the practical on-farm implications for those farming next to the Waitaki River, and the difficulties created, in particular, by the change to the definition of the bed of a braided River.
36. The amendments we are seeking attempt to retain the intent of the rules, but provide for more on-the-ground flexibility in implementation.

ELIZABETH SOAL

29 January 2016