

From: [Irricon Consulting](#)
To: [Mailroom Mailbox](#)
Cc: [Jan McIlraith](#)
Subject: Correct version of the Wise Response Submission to PC5 Waitaki
Date: Sunday, 13 March 2016 12:05:07 p.m.
Attachments: [LWRMS Submission to PC5 L and W Plan Waitaki WQ March 2016 Final approved.pdf](#)

On Friday 11 at 4:54pm our Society submitted on PC5 Nutrient management and the Waitataki for the Land and Water Plan.

Unfortunately a non-final version was sent to you which contained a number inaccuracies and typos.

The Society is concerned this will create confusion for the Commissioners and would ask if you could replace the earlier version with the attached corrected version entitled "Submission to PC5 Land W Plan Waitaki WQ March 2016 Final approved". The submission is otherwise the same.

I would be grateful if you could confirm receipt of this request.

Thankyou very much

Dugald MacTavish

Cc Ian McIlraith (Chair Lower Waitaki River Management Society)

SUBMISSION TO THE
ENVIRONMENT CANTERBURY
ON THE

PROPOSED PLAN CHANGE 5 TO THE PROPOSED
CANTERBURY LAND AND WATER REGIONAL PLAN
(Nutrient Management and Waitaki)

By

**LOWER WAITAKI RIVER MANAGEMENT
SOCIETY Inc**

Final 11 March 2016

**SUBMISSION ON PROPOSED PLAN CHANGE 5 TO THE PROPOSED
CANTERBURY LAND AND WATER REGIONAL PLAN**

Address for service of submitter

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Trade Competition

The Society could not gain an advantage in trade competition through this submission.

Affected Party

The Society considers itself directly affected by an effect of the subject matter of the submission and wishes to be heard.

Position

The Society opposes the Plan Change and wishes to be heard.

Signature of person authorised to sign on behalf of the Society making the submission

Signature: _____ Date: _____

SUBMISSION ON PROPOSED PLAN CHANGE 5 TO THE PROPOSED CANTERBURY LAND AND WATER REGIONAL PLAN

Submission

1 INTRODUCTION

Background to Lower Waitaki River Management Society

- 1.1 This submission has been prepared by the Lower Waitaki River Management Society, (LWRMS or the Society) an organization that has been meeting since 2004 and which became an Incorporated Society in August 2006.
- 1.2 The Society was formed in order to prepare and implement a community-based management plan for the Lower Waitaki River using the general principles of Integrated Catchment Management. While the Society is multi-stakeholder with members holding commercial interests in the use of Waitaki River water, the vision and the objectives show recognition that the river itself needs a clear and unequivocal voice to ensure its cultural, aesthetic, amenity, ecological integrity and intrinsic values are preserved for the future. The Rules of the Society are lodged in Appendix A.
- 1.3 The initiative for a group to develop a river management plan came from individuals in the community who were dismayed to see how, in the space of one single application, the Project Aqua proposal changed the perception of the Waitaki River from one of almost limitless bounty to yet another NZ river under real threat from human exploitation. The total lack of any overarching community agreement about the protection of instream values suddenly made the river appear vulnerable.
- 1.4 The Society is made up of a broad cross section of individuals and organizations with an interest in the Lower Waitaki River. To establish the Society, Environment Canterbury facilitated a series of public meetings to canvas opinions, issues and options that represented all sectors of the community with interests in the Lower Waitaki River. Turnouts to these public meetings were regularly in excess of 80 individuals/organisations.
- 1.5 The Society is now run by a Board of 16 democratically elected members. The mailing list for the group has fluctuated depending on the issues before it but is currently approximately 120. The committee includes representatives of the Waitaki River Riparian Enhancement Society with a mailing list of 315 and the Waimate Rod & Gun Club with 65 members as individuals or families. For Plan Change 3 to the WCWAP we developed a submissions platform with 6 recommendations largely to maintain the existing minimum flow and protect ecological river values. That website generated over 500 submissions in support of those values.

Preparation of a River Management Plan

- 1.6 To develop the management strategic plan itself, a Committee was elected by the wider community. The Committee originally comprised 19 individuals from various interest groups including: Irrigators and Irrigation Companies, Meridian Energy Ltd (in the early stages), Mana Whenua, conservationists, recreationalists, anglers, adjacent landowners, community representatives, and coastal farmers.
- 1.7 To ensure that the management plan was based on sound and up to date scientific information, each of the meetings featured specialist speakers from a range of fields. These included braided river ecology, geomorphology, irrigation, weed control, as

well as information on access, land tenure, ownership and existing management. In addition to scientific information, all individuals and organizations with an interest in the future management of the Lower Waitaki River were invited to provide their views.

- 1.8 Consequently, the Lower Waitaki River Management Society is well-informed, having a clear and representative understanding of both the sustainability issues facing the river and community aspirations. The objectives and goals of the Society as they appear in the management plan are in Appendix B of this submission.

Plan Implementation

- 1.9 Since finalization of the River Management Strategic Plan in July 2006 the Society has been working to realize its goals for the river. Until 2014 the Committee was chaired by Bill Penno, a local farmer, former Regional Councilor, and highly regarded community leader. Since its inception, the Society Committee have met at approximately 4-6 weekly intervals although less frequently in the last 18 mths to reduce load on members. Currently, Meridian Energy is not represented and irrigators are not as well represented as they were.
- 1.10 The Society has formally submitted and been heard at hearings for the WRP, the North Bank Tunnel Scheme (NBT), the Hunter Downs Irrigation Scheme, the "Called in Consents". It has also organized river related field trips and events for the general public. In 2015 it was successful in securing funding jointly with DOC to undertake a habitat enhancement project in the lower Waitaki for the engendered Canterbury Mudfish. A manager has been employed by the Society to supervise this project.
- 1.11 Prior to the NBT Scheme hearings, the Society engaged in a series of "River Science" Workshops with Meridian Energy Ltd. These meetings gave opportunity to engage directly with Meridian's scientists to better understand current scientific understanding of all aspects of the Lower Waitaki River. The information gained significantly raised general understanding on matters that could potentially affect the river.

Community-wide point of view

- 1.12 As with any community-based organization involved in planning matters, there is the potential for internal conflict of interest. This issue has been successfully addressed by:
- a commitment to "river science",
 - putting public interests before personal and
 - adhering to the principles collectively agreed in the Society's strategic plan
- 1.13 Hence, because the vision, goals and policies of the Society's plan for the river have been developed through a thorough, inclusive and democratic community consultation process, the Society believes it offers a unique and very important perspective on the river and on the proposed values and objectives for the Lower Waitaki River. The Society, therefore, asks that the Commissioners consider this submission as voicing a community vision for the Waitaki River, as opposed to a particular stakeholder view.

Scope of submission

- 1.14 The Society notes the request in the notification document for linking the submission to specific provisions and the "precise detail" for any relief sought. We accept that level of detail would be highly desirable from all points of view (including having desired outcomes accepted by the Commissioners) and endeavour to be

comply were we can. But never the less, by-and-large, that level of detail and understanding is beyond the Societies resources or expertise. The sheer volume of literature associated with the change, aside from the level and range of expertise required to interpret what the implications are, are aggravating factors.

- 1.15 Added to this is that for expert advice supporting submissions under the RMA we are heavily reliant of the good will of specialists who consider the Society's concerns are worthy of their assistance irrespective of the level of remuneration we can offer. They often have other jobs so the time they can offer is limited.
- 1.16 This means also that we have limited access to legal and planning advice on what are the correct interpretations of the relevant Acts and Plans and just how these proposed plan changes might work together.
- 1.17 However, what we do believe is that it is still both right and important for a voluntary group with our track record and community-wide mandate, to be able to bring to the attention of the commissioners its concerns and wishes for the future of freshwater in their district, even if those can only be expressed in broad terms and desired outcomes.
- 1.18 Therefore, once any evidence is available for the hearing, we will make every endeavour to bring more specific recommendations to assist the Commissioners, ideally supported by legal or planning advice.
- 1.19 Our submission focuses on the Lower Waitaki and its tributaries but extends upstream where we consider water management provisions may have a significant impact on what water quality passes across the Waitaki Dam, into the Lower Waitaki River system. We also include comments relating to wider nutrient management.

2 GENERAL ISSUES WITH THE PLAN CHANGE

The Society wishes to raise the following issues and concerns.

Process

- 2.1 The Society note the explanation in the s32 report of the process for setting the Water quality outcomes and limits. "This process includes identifying the values of each freshwater management unit (FMU), the attributes that are appropriate for those values, and then formulating the objectives based on those attributes. The CRPS also requires that minimum water quality standards are established which are appropriate for each water body" (s32 Report, pp 135).
- 2.2 It is clear that the quality of the outcome relies heavily on what values the "community" puts on that unit. Of concern to the Society is the manner in which the community values have been determined.
- 2.3 We can see two main vehicles for advising on community "values" prior to the notification of this plan. One is the Zone Committee and second are the nutrient working groups. Both have been set up under the auspices of the Zone Committees. The nutrient working groups are understandably dominated by those whose livelihoods may be directly affected by outcomes.
- 2.4 The Zone Committee comprises hand picked individuals from the community supposed to represent all major interest sectors including "environmental". But it is dominated by business people who, in many instances, have a direct pecuniary interest in outcomes. Ecan commissioners have representatives on the Zone Committees and are of course formidable and highly influential participants.

- 2.5 They are subject to a stream of information that is being driven by Ecan commissioners, who are themselves appointees and have been given a prescribed development programme to implement through the Zone Committees.
- 2.6 Factors such as the complexity and volume of information laypeople are having to try and understand, the limited number of representatives for major sectors and the high committee turnover, raise serious concerns about the quality of decisions with such far reaching implications. There are few of the checks and balances brought by the wider community.
- 2.7 The point the Society wishes to make here is that the process of determining the key values component which largely determine the outcomes to the plan is fraught and very open to hijacking by sector interests or national agenda.
- 2.8 Given the exhaustive process that led to the development of the Society's Plan, we believe it is a much more reliable reflection of community river characteristics that are valued. This, combined with the fact that so many have such fond memories of a family outing to a local water hole in their youth, leads us to believe that the majority of residents in Waitaki want to see all rivers in the area attractive for swimming and safe for all contact recreation. And were this is not the case, that all relevant parties are working toward that outcome by a certain time.
- 2.9 Before any community "values" for FMUs are locked in, we consider:
- i. there must be a genuine community consultation (including surveys) to confirm the "value" outcomes the wider community wish to see for the waterways
 - ii. that the values reflected in the Society's Strategic Plan be given pre-eminence where values have been determined largely by specific interest groups.

Approach to setting targets and limits

- 2.10 In the report *Water quality in New Zealand: Land use and nutrient pollution*, the PCE showed a clear correlation between the amount of land converted to dairy farms and the amount of nitrogen that finds its way into water¹.
- 2.11 It appears the water quality targets are sometimes being set on the basis of what is considered achievable under preferred intensive landuse rather than on the basis of water quality limits and standards that are known to be necessary to achieve ecologically resilient river, estuary and lake systems.
- 2.12 This would be inappropriate as "environment" is identified as the first order priority consideration along with customary uses, community supplies and stock water in the CWMS.
- 2.13 In its decision on the Tukituki Plan Change 6 and Ruataniwha Dam the High Court confirmed the appropriateness of setting ecological limits rather than toxicity limits and that both nitrogen and phosphorus should be controlled to minimise the risk of periphyton growth.
- 2.14 So the practice of setting toxicity levels for individual water ways, or parts thereof, seems inconsistent with this approach and potentially fraught with management difficulties.

¹ Parliamentary Commissioner for the Environment *Water quality in New Zealand: Land use and nutrient pollution* 2013.

Existing water quality

- 2.15 The water quality in some reaches of the Waitaki and tributaries is already too low and needs to be improved before additional catchment/sub-catchment nutrient loads are permissible.
- 2.16 For example, the CWMS principles includes "that restoration of natural character and biodiversity, is a priority for degraded waterways, particularly lowland streams and lowland catchments".

Short term fluctuation

- 2.17 Unless water quality limits incorporate sufficient precaution and redundancy to accommodate shorter term variations in the likes of temperature and oxygen, there is a risk of over-allocation and failing to safeguard the life supporting capacity.

Absolute level of limits and their application

- 2.18 Both the NPSFM and the CRPS seek that the overall quality of freshwater in Canterbury is maintained or improved. This process includes identifying the values of each FMU, the attributes that are appropriate for those values, and then formulating the objectives based on those attributes.
- 2.19 The Society considers identifying values that do not "maintain or improve" water quality is inconsistent with the purpose of the RMA and objectives sought in the CWMS and other planning instruments if the targets and limits themselves are not designed to consistently maintain biodiversity and ecosystem services.
- 2.20 For example, a recreational objective of the CWMS is that "high quality water ensures contact recreation such as swimming, fishing, boating and other water sports are able to be enjoyed throughout Canterbury".
- 2.21 Safeguarding the life-supporting capacity of freshwater bodies remains a key objective of the National Policy Statement on Freshwater and this will not be achieved unless the limits proposed below or better are sustained. Many of the limits proposed achieve this.
- 2.22 Nitrogen limits are key to water quality outcomes and to control excessive unsightly periphyton growth, and therefore should be close to the ANZECC guideline limit for lowland waterways of 0.44mg/l nitrate nitrogen and 0.61 mg/l total nitrogen or less than 0.8 mg/l DIN set in the Ruataniwha Board of Inquiry decision.
- 2.23 The maximum daily temperature during summer (October to April inclusive) be no greater than 19°C and during winter no greater than 11°C. The chlorophyll max biomass should reflect the Biggs (2000) periphyton guidelines of 50mg/m² for upland and 120 mg/m² for lowland and plains streams.
- 2.24 For the water quality limits, the Annual median and 95th percentile should not exceed 0.8mg/l.
- 2.25 We are also concerned about the sheer complexity of nutrient management under this suite of proposed objectives, policies and rules and methods. We believe it will be difficult for all having to implement these rules and that they are therefore less likely to be successful. We think they should be simplified.

Coastal impacts

- 2.26 The limits do not appear to take into account sufficiently the accumulative effect of nutrient in our coastal marine environment where the "precautionary approach" is required under the National Coastal Policy Statement.

2.27 For example the CWMS has a principle "the interdependence of waterways and coastal ecosystems is recognised" and the connection is also recognised in the NPSFM.

Context for precautionary principle

2.28 The Earths planetary boundary framework sets out precautionary boundaries for nine critical processes of human-driven environmental change. Beyond these boundaries, we all face the possibility of abrupt, large-scale changes in Earth system functioning and significant risks to societies and economies worldwide.

2.29 Together, the planetary boundaries quantify "a safe operating space" at a global scale. They provide benchmarks for sustainable management of natural and physical resources that have a sound biophysical basis (Refer Planetary Boundaries figure in Appendix C).

2.30 Thus, by this analysis, four processes are already entering the scientifically assessed, global risk zone and are past the safe threshold. These are

- land use change,
- climate change,
- loss of biosphere integrity, and
- an overload in the nitrogen and phosphorus biogeochemical cycles (nutrient).

2.31 Nutrients – such as nitrogen, phosphorus, potassium and micronutrients including calcium, sulphur, copper, zinc and others– are essential for plant growth, food production and ultimately adequate nutrition for humans.

2.32 But excessive use of phosphorus is not only depleting finite supplies, but triggering water pollution locally and beyond, while excessive use of nitrogen and the production of nitrogen compounds is triggering threats not only to freshwaters, but the air and soils with consequences for climate change and biodiversity².

2.33 Trends for most of the planetary boundaries are not encouraging and need to be changed if we are to be sustainable. As this is a cumulative effect, it falls to each contributor to respond. And if landuse change is increasing nutrient (or GHG) emissions, it is aggravating risk by adding to the excess in the environment and therefore could not constitute a "precautionary approach" to sustainable management.

2.34 From this point of view it would be highly desirable if the plan could recognise the value of diverse landuse and less polluting enterprise in the context of sustainable management and a more resilient community

Contaminant pathways

2.35 We do not have confidence that there is sufficient understanding in the relationship between the nutrient load applied to land and the resultant baseflow water quality to be confident in the nutrient outcomes and whether they will remain within the specified limits.

2.36 The leaching numbers in OVERSEER need to be backed up by modelling to determine what the water quality outcomes would be from applying the different options (loadings, soils, irrigation etc).

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<http://www.stockholmresilience.org/research/researchnews/governingwithintheplanetaryboundaries.5.1fc8315a135cb03b559c04.html>

- 2.37 Nutrient loss rates must be linked to the target outcomes so if they are not met then the loss rates can be revised without "derogation of right" issues.
- 2.38 The significant uncertainties between factors such as loading rates, effectiveness of GMP, groundwater flows etc the permitted loading rates both per ha and for the catchment as a whole need to be inherently precautionary.

Good management practice (GMP)

- 2.39 Ecan have yet to fully quantify what GMP means in terms of typical nitrate nitrogen (N) and phosphorus (P) losses expected to occur from the range of farming systems, soils and climates across Canterbury when managed to agreed good management practices.
- 2.40 Yet the Plan Change acknowledges heavy reliance on GMP practice as an intervention in mitigating nutrient and other contaminant effects.
- 2.41 Should Plan Change 5 be implemented as proposed, we risk infrastructural investment which anticipate land management impacts that, in the event, may not meet limits and thereby fail to sustainably manage the use and development of land. Further, the level of investment in intensification may effectively make remedying a failure to comply with intended water quality outcomes uneconomic.
- 2.42 The Society wishes to be certain that the overall quality of fresh water within the region will be maintained or improved (Objective A2, NPSFM)
- 2.43 It should be clear that community values and desired outcomes determine what GMP farming systems are required, and not vis versa.

Compliance

- 2.44 Policies and rules need to contain real measurable limits and bottom lines so that compliance can be effectively achieved. Non-compliance must have a clear time limit.
- 2.45 Accordingly, Ecan must not be marginalized from being able to check any property or supplier for whether or not farm plans or farming operations are meeting nutrient management obligations (eg controlled activity or relying overly on independent auditors).
- 2.46 These provisions will provide the sector and the community with a level of certainty and confidence.

RMA

- 2.47 A recent supreme court hearing³ has reconfirmed the need for decisions under the RMA to give priority to providing "environmental bottom lines" rather than the application of an "overall judgement" promulgated by a Board of Enquiry. The decision repeated emphasised that environmental protection is an essential part of the RMA's purpose of sustainable management.
- 2.48 It noted that the matters in sections 6 and 7 are an elaboration of the statement of principle contained in section 5 and that matters in section 6 "fall naturally within the concept of sustainable management in a New Zealand context", giving stronger direction to decision-makers than section 7.
- 2.49 We note that matters in section 6 "shall be recognised and provided for" and that s6(a) includes the preservation of the natural character of the coastal

³ *Environmental Defence Society v New Zealand King Salmon Co Ltd* [2014]NZSC 38(SC).

environment (including the coastal marine area), wetlands, and lakes and rivers and their margins and the protection of them from inappropriate subdivision, use, and development.

- 2.50 The Society believe this applies to this proposed PC5
- 2.51 Since that decision, the Environment Court on appeal to the granting of a resource consent for the Ruataniwha Dam, further clarified water quality limits⁴.
- 2.52 It relates to section 30(1)(c)(ii) of the RMA, which requires regional council's to uphold the function of the maintenance and enhancement of the quality of water in water bodies and coastal water. The definition "water body" is interpolated from its definition in s.2 of the Act as: ...fresh water or geothermal water in a river, lake, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area.
- 2.53 In its March 2015 decision the Environment Court ruled that: 'This function is not optional - it is something a regional council is required to do, whether it be difficult or easy. (Para 29).
- 2.54 Although this decision related to objectives in a RPS, linked with the earlier decision on King Salmon, it raises questions as to whether this also applies to rules, given that these are the primary means for control of land use and this Plan Change has been lodged subsequent to that decision.
- 2.55 The Society is therefore interested to know if this decision is relevant here.

In summary

- 2.56 The Society considers some limits set for water quality outcomes are too high and that the loading rates may also be too high to be confident that national and regional freshwater objectives are going to be met - most notably in:
- The National Policy Statement on Freshwater Management, 2014
 - New Zealand Coastal Policy Statement, 2010
 - National Environmental Standard for Sources of Human Drinking Water
 - Section 69 and Schedule 3 of the RMA
 - Canterbury Water Management Strategy and Zone Implementation Strategy
 - Purpose and principles of the RMA
- 2.57 Because of the above uncertainties, the poor record from Farm Environmental Plans to date and the continuing deterioration in river water quality in lowland Canterbury, the Society considers that it needs to be demonstrated that complying with the water quality limits is technically achievable before the Plan is approved and before any further dairy conversions are consented.
- 2.58 Overall, the Plan Change has too much near-term focus on facilitating immediate economic return from intensive industrial agricultural systems rather than focusing on achieving farming systems that are ecologically stable and robust because they are not heavily dependant on high inputs or polluting discharge.

⁴ Decision of 27 March 2015. Ngati Kahungunu Iwi Inc. v Hawkes Bay Regional Council.

2.59 This submission therefore questions the fundamental thrust of the Plan Change and ultimately its compliance with the purpose and principles in Part 2 of the Resource Management Act

Thankyou and we wish to be heard in support of our submission

APPENDIX A:

Objects of the Society

2.60 The following objects have been included in the Society's Rules

- (a) To create a Management Plan for the lower Waitaki River ("the River") that reflects and strengthens the social environmental, cultural and economic values of the river system for the benefit of the wider Waitaki community while protecting and enhancing the river system in a sustainable way.
- (b) To pursue for the River the preservation of its natural, cultural and historic resources while maintaining the River's intrinsic value. To seek the protection of these resources, including restoration and enhancement, for the appreciation, recreation and enjoyment by present and future generations.
- (c) To achieve healthy working ecosystems for the River and its catchments through "Integrated Environmental Management", meaning a systematic effort to understand, through interactive interpretation and analysis, the linkage between ecosystems, resources and people.
- (d) To involve individuals, community groups and other organisations in learning and practicing the principles of sustainable integrated environmental management so that all parties responsible for the management of the River and its resources apply these principles.
- (e) To strengthen relationships between Mana Whenua, communities, interest groups and statutory agencies for the better management of the River and its resources.
- (f) To acquire, publish and use information and knowledge of the River through research and monitoring, public education, contributing to planning, and any other actions that are necessary for the integrated environmental management of the River, its resources and its catchments.
- (g) To increase public recognition, understanding and appreciation of the qualities and values of the River.

APPENDIX B:

MISSION, OBJECTIVES AND GOALS OF THE LWRMS

Society Mission “To protect and enhance, in a sustainable way, the Lower Waitaki River System”

Goal 1

The community and Statutory Authorities work together to prepare, monitor, update and implement a management strategy for the Lower Waitaki River which integrates the environmental, social, economic and cultural values of the community.

Objectives

1. Community spirit and involvement fostered by consultation and communication.
2. Secure resources and finances to implement strategy.
3. Foster recognition of historical and cultural values.
4. Build and maintain strong relationships with all stakeholders.
5. Advocate for the sustainable allocation of water for irrigation, stock, domestic and firefighting uses.
6. Ongoing monitoring and revision of strategy.
7. Advocate for statutory mechanisms to achieve strategy outcomes as necessary.
8. Collate scientific data, and initiate research as required to provide a sound scientific basis for the Society’s advocacy.
9. Develop and maintain a partnership with mana whenua.

Goal 2

To protect and enhance the natural environment for the benefit of present and future generations.

Objectives

10. Maintain the “wild river” values: big water, open space and isolation.
11. Advocate for variable flow regime that achieves a sustainable braided river system and associated values.
12. Protect and enhance wildlife populations, diversity and habitats, especially of rare and endangered species.
13. Protect and enhance indigenous vegetation, particularly where rare species are involved.
14. Maintain and protect aquatic habitat for both native and introduced fish.
15. Protect spring fed tributaries and wetlands in the river system.
16. Ensure river control works and weed control programmes are environmentally sensitive, and protect habitat, wildlife and recreation values.
17. Maintain water quality and habitat in the main stem, tributaries and hydraulically connected groundwater.

Goal 3

To provide for safe and balanced recreation.

Objectives

18. Negotiate pedestrian access to river for fishing/hunting with adjoining landowners at appropriate points.

19. Negotiate vehicle access for recreational and boat launching sites with adjoining landowners that protects environmental and natural values, and human safety.
20. Recreational users to be informed of access, picnic sites, and conditions of access.
21. Facilitate the development of recreation and picnic areas with appropriate facilities.
22. Minimize impacts of recreation/tourism use on natural and environmental values.

APPENDIX C:

