in the matter: of applications for resource consent by Benmore Irrigation Company

to: Environment Canterbury

submitter: Meridian Energy Limited

Brief of evidence of Jane Whyte

Dated: 3 October 2016
BRIEF OF EVIDENCE OF JANE WHYTE

QUALIFICATIONS AND EXPERIENCE

1. My full name is Margaret Jane Whyte.

2. I hold the degrees of Bachelor of Arts and Master of Regional and Resource Planning, both from the University of Otago. I am a full member of the New Zealand Planning Institute.

3. I am a Director of ResponsePlanning Consultants Limited, a consultancy specialising in planning and resource management. I have been a Director of this company since 2004. Prior to this I was the Environmental Services Manager at Banks Peninsula District Council. I have over twenty four years planning and resource management experience working as both a local government planner and as a consultant.

4. I have worked throughout New Zealand. Since 1997 I have been based in Christchurch and much of my work has been within the Canterbury Region.

5. A core area of my practice is the preparation and evaluation of assessments of effects and resource consent applications. This has provided me with the experience of implementing statutory planning documents, including Regional Policy Statements, Regional Plans and City and District Plans. I have worked on a range of projects and have sought and obtained land use consents, subdivision consents, water permits and discharge consents. Of particular relevance to the current proposals I have been involved in providing advice to Meridian on other water permit applications and appeals in the Upper Waitaki Catchment. I have also provided advice to clients on the implications of Plan Change 4 and Plan Change 5 to the Canterbury Land and Water Regional Plan. I am therefore familiar with the management of irrigation related activities, and water quality management in the Upper Waitaki Catchment.

6. I am a certified hearings commissioner the holding a Chair endorsement. I have acted as a Commissioner on Resource Consent and Plan Change applications.

7. I have read the Code of Conduct for Expert Witnesses and agree to comply with it. I confirm that I have complied with it in the preparation of this statement of evidence.

8. I provide the following declaration of conflict of interest. My husband is an employee of Meridian Energy. This relationship has not had any influence on my evidence and my opinion as an Independent Expert.

9. In preparing my evidence I have reviewed:

   9.1 The resource consent application prepared for Benmore Irrigation Company Limited (BIC).

   9.2 The Canterbury Land and Water Regional Plan (LWRP).

   9.3 Proposed Plan Change 5 to the Canterbury Land and Water Regional Plan (PC5).

   9.4 Submissions lodged to PC5.

   9.5 The submission by Meridian Energy to the current applications by BIC.

   9.6 The Section 42A reports.
9.7 The evidence provided on behalf of BIC, and in particular the conditions proffered provided by BIC on 30 September 2016.

9.8 The evidence of Mr Brian Ellwood.

**SCOPE OF EVIDENCE**

10 I have been asked by Meridian Energy Limited (*Meridian*) to prepare this statement of evidence. Meridian has sought I consider key matters that should be addressed in conditions should the BIC consents be granted.

11 Given these instructions I have read and considered the application, key parts of the further information request, the Section 42A report and evidence of the applicant necessary to inform my consideration of appropriate conditions, if granted. I have not undertaken a full planning evaluation as to the merits or otherwise of the proposal.

12 I have considered whether the matters identified within Meridian’s submission and in the evidence of Mr Elwood and are appropriate for conditions. I have also considered the degree to which any BIC conditions could or should be consistent with the common set of conditions that many more recent resource consents in the Upper Waitaki Catchment are subject to, many after confirmation by the Environment Court.

13 I understand that that the BIC proposal is being processed by Environment Canterbury as a new water permit under Section 14 (rather that the Section 127 change of consent applied for by BIC) of the Resource Management Act (*RMA*) and a new discharge consent under Section 15 of the RMA. Mr Ensor for the Applicant¹ and Mr Woodlock² for ECAN have both identified the applications are to be considered as discretionary activities. I concur with this and recognise that for discretionary activities there are no limitations on the matters able to be considered in conditions of consent.

14 I have used the set of conditions proffered by BIC (BIC proposed conditions) at this hearing as the basis for my consideration in preference to the conditions included in the initial Section 42A report of ECAN. This is because the BIC proposed conditions are more recent and have sought to address a number of the concerns expressed in the submission of Meridian.

15 While I have considered all of the BIC proposed conditions my evaluation focusses on two key matters of interest to Meridian. For these matters I have considered whether it is appropriate to have conditions, and if so, what these conditions should achieve in relation to:

15.1 Ensuring a clear and strong relationship is established between the modelled Overseer outputs and real world implementation so that the model and reality are consistent.

15.2 The management of any actual or potential nutrient loss from the BIC scheme within different receiving environments in a manner that:

   (a) achieves the appropriate water quality outcomes for each receiving environment

   (b) achieves integrated management of the effects

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¹ Paragraph 18 Evidence of Tim Ensor for BIC
² Paragraph 53 Section 42A report of Simon Woodlock for ECAN
(c) includes conditions that manage cumulative effects consistent with other consents operative in the Upper Waitaki Catchment

(d) provides for adaptive management including monitoring and response if there is a negative impact on the achievement of water quality

(e) responds to Plan Change 5, when operative, as is appropriate.

16 Using the BIC conditions as a basis in Appendix 1 I have outlined the changes I am suggesting to some of the conditions proposed.

**CONSIDERATION OF CONDITIONS**

**Modelled Overseer® Outputs**

17 Mr Ellwood identified a number of potential issues and uncertainties that exist with Overseer® modelling. Through examples he has demonstrated how sensitive the modelled nutrient outcomes are to the modelled inputs, such as changing the irrigation scheduling\(^3\); changes in the farming practice such as water use\(^4\), and the efficiency in the application of water\(^5\).

18 I understand BIC (and the Section 42A Officers) are using Overseer® to predict the nutrient related effects of this application. Therefore, to ensure that the actual and potential effects of the proposal are avoided, remedied or mitigated it is essential that the modelled nutrient losses can be achieved in a real world situation. Mr Ellwood identified three critical matters to ensuring the modelled results can be achieved being:

18.1 Irrigation being controlled in relation to soil profile available water (90%) to minimise drainage of the soils and resulting nitrate leaching.

18.2 Real time measurement and recording of soil profile available water for both irrigation scheduling and compliance purposes.

18.3 Ensuring all irrigation infrastructure is capable to achieve the above.

19 I support the three matters identified by Mr Ellwood being reinforced through conditions of consent. In my view without such conditions, the modelled predicted nutrient loss may differ from the actual nutrient loss. These conditions will avoid nutrients being lost from individual properties and the BIC scheme into the environment. This is consistent with the outcome sought in the submission of Meridian.

20 I recognise that the above matters are addressed in the BIC proposed conditions being:

20.1 Conditions 12-16 addressing Soil Moisture Management.

20.2 Conditions 31 and 32 addressing irrigation infrastructure.

21 Having reviewed the BIC proposed conditions I consider that they largely address the concerns raised by Mr Ellwood and I support them as proposed by BIC with two exceptions being Condition 12 clauses a.i and a.ii and Condition 31.

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\(^3\) Paragraph 24 Evidence of Brian Ellwood  
\(^4\) Paragraph 25 Evidence of Brian Ellwood  
\(^5\) Paragraph 30 Evidence of Brian Ellwood
22 Condition 12 provides a limitation of when irrigation shall not occur. Clause a.i. states that irrigation shall not occur if “the soil moisture content of the top 60 cm of soil exceeds 95% of the profile available water;”. Clause a.ii. states that irrigation shall not occur if “the application of irrigation water results in the top 60 cm of soil exceeding 95% of the profile available water;”. Mr Ellwood’s view is rather than 95% the limitation in this condition should be 90%. He has addressed the reasons for this in his evidence\(^6\). I have reviewed the evidence of Ms Philips to understand why 95% is the preferred number of the applicant. Table 1 in her evidence shows the 95% as the default target value\(^7\). However, as explained by Mr Ellwood this default target has not formed part of the modelling. Given the importance of ensuring that the modelled nutrient losses can occur in the real world I rely on the evidence of Mr Ellwood. In appendix 1 I have identified the condition to be modified with “95%” being replaced with “90%”.

23 Condition 31 addresses irrigation infrastructure. The proposed condition defines the standard that all new irrigation infrastructure must meet. Mr Ellwood’s view is that it is important that existing irrigation equipment is upgraded to meet the modelled water use efficiency and to verify upgrades to existing systems have been achieved prior to expansion of the scheme area. He explains the upgrading required and the reasons for this in paragraphs 29, 30 and 50 of his evidence. In particular I recognise that within the proposed farming systems, the assumption is that for all new and existing systems the irrigation application is highly efficient (leading to best practice). He has a low level of confidence that the Overseer® N loss model predictions will reflect reality if the existing irrigation systems are not upgraded. As with condition 12 given the importance of ensuring that the modelled nutrient losses can occur in the real world I have relied on the evidence of Mr Ellwood. In Appendix 1 I have identified the condition to be modified by deleting the word “new” so that it applies to all irrigation infrastructure as at the commencement of this consent.

24 I consider that the matters addressed by BIC proposed conditions 12-18, 31 and 32 are valid matters that conditions can be imposed under Section 108 of the RMA and appropriately relate to the activity proposed. I find there is support for the imposition of such conditions in order to achieve Objectives 3.6, 3.7, 3.8, 3.9, 3.12, 3.24 and Policies 4.1, 4.2, 4.14(b), 4.38 and 4.68 of the LWRP. I support these conditions, subject to the amendments addressed in Appendix 1.

Management of Nutrient Loss with Receiving Environments and PC5 response

25 The submission of Meridian sought that if consents are granted that they be subject to conditions of consent that:

25.1 Require any nutrient discharge (including N and P) to be consistent with the limits specified in the LWRP and PC5 for the relevant receiving environments.

25.2 Provide for river water and lake water quality triggers, monitoring and responses including early warning triggers and environmental triggers for the receiving environments of the Ahuriri Arm of Lake Benmore, Kellands Pond\(^8\) and Wairepo Arm, Haldon Arm of Lake Benmore, Upper Ohau River, Lake Ruataniwha.

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\(^6\) Paragraphs 26 and 27 Evidence of Brian Ellwood

\(^7\) Table 1 Page 15 Evidence of Nicole Phillips

\(^8\) Referred to as Kelland Pond in BIC proposed conditions
25.3 Provide for groundwater quality triggers, monitoring and responses including environmental triggers.

25.4 Impose conditions, including adaptive management conditions, that are consistent with other recent Upper Waitaki Consents.

26 I have considered the conditions that Meridian is seeking be imposed, if consent is granted. I support the principle of imposing limits on the nutrients and that these be reinforced through the conditions of consent. Within the BIC proposed conditions this occurs in Conditions 21-30.

27 Condition 21 defines the Overseer® input file. Condition 22 is where the Nutrient Discharge Allowance (NDA) is to be calculated under the latest version of the Overseer® model. I consider the key matter to be addressed in these conditions is which Overseer® Input file is referred to – be it the existing/baseline or the proposed. As proposed the advisory note in Condition 22. references the Existing Baseline numbers9. As a planner I do not have expertise with respect to the Overseer® model files. However, I do have experience in considering consents and determining appropriate conditions of consent. This application is for a new proposal. The assessment of effects in the application documentation and the evidence for the applicant are based on what is proposed. From a consent management perspective I would consider it more appropriate for the input model referenced in conditions of consent to relate to what is proposed, rather than the existing/baseline. I note from Mr Ellwood’s evidence that the proposal, as modelled10 cannot meet the N and P NDA set out in the advice note to condition 22, and therefore condition 22 itself. As such I consider the proposal would be frustrated by the current form of condition. I have included changes to Conditions 2111 and 22 in Appendix 1 to reference the proposed Overseer® model.

28 With respect river, lake and groundwater quality triggers and requiring a response if the early warning or environmental triggers are breached I recognise that the BIC proposed conditions 37-42 do address each of these matters for the following receiving environments:

28.1 Ahururi Arm of Lake Benmore

28.2 Haldon Arm of Lake Benmore

28.3 Wairepo Arm

28.4 Kelland’s Pond

28.5 Lower Lake Benmore

29 Surface and groundwater matters are addressed in Proposed Condition 43.

30 For the lakes the BIC proposed conditions establish early warning triggers, environmental triggers and set out the required adaptive management response. This general approach to conditions is consistent with a number of the other consents issues in the Upper Waitaki Catchment. I support this approach as it enables the integrated management of actual or potential effects within the catchment to occur. Further it enables cumulative effects.

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9 Condition 22 Advisory Note a.-c. numbers are those within the Existing Baseline column of Figure 1 in the Evidence of Nicole Phillips (pages 2-3)

10 Paragraphs 44-48 Evidence of Brian Ellwood.

11 The specific file references are not included in the BIC proposed conditions.
associated with a number of discharges and nutrient losses occurring in the Upper Waitaki Catchment to be monitored and managed should an unanticipated nutrient load be found in the receiving environment.

31 The proposed adaptive management conditions 37-42 assist to minimise the risk arising from any modelling or analysis uncertainties. The adaptive management conditions enable nutrient reductions at source to occur if water quality trigger, or environmental trigger levels are exceeded. The adaptive management approach enables investigation of the cause of any unanticipated nutrient load and can require remedial action from contributing properties.

32 While I support the nature of the Proposed Adaptive Management Conditions I have identified some drafting issues in the current conditions which mean they will not achieve the monitoring and response outcomes intended for all of the identified waterbodies, particularly Wairepo Arm and Kellands Pond. The issue arises in the relationship between Proposed Condition 38 and 39-41. Condition 38 specifies early warning trigger levels for the Ahuriri Arm, Haldon Arm and Lower Benmore at 2.75 and for Wairepo Arm and Kellands Pond at 3.75. However the subsequent ‘response’ conditions 39-41 only refer to 2.75 and not 3.75 applying to Wairepo Arm and Kellands Pond. The result of this is that while there is an early warning trigger set for Kellands Ponds and Wairepo Arm which would require some reduction if breached, there would be no further reductions required and there would be no environmental triggers set for these waterbodies. My expectation is that this is simply an error in drafting rather than a deliberate outcome being proposed by BIC not to address these waterbodies. In Appendix 1 I have provided alternative drafting which would ensure all waterbodies monitored are adequately addressed in the adaptive management conditions.

33 I have also suggested a minor amendment to Condition 40 in an effort to avoid confusion with what constitutes ‘consented farming’. I consider it more appropriate to refer to consented nutrient loss from farming and aquaculture. I have included this change in Appendix 1.

34 In addition to the drafting issues I have considered whether the adaptive management approach of the BIC proposed conditions and other consent conditions on approved consents in the Upper Waitaki catchment. BIC proposed condition 41 addresses circumstances when the Environmental Trigger (not the early warning trigger) is breached. The condition provides for a further NDA reduction of 5% x IPF for three subsequent irrigation seasons. I note that a number of the other consents issued in the Upper Waitaki Catchment have 10% consequence for the breach of an Environmental Trigger. In effect the nutrient reduction response escalates between the early and environmental triggers. While I have no expertise as to what the consequence of any particular percentage reduction is, from the perspective to managing effects of activities in the catchment in an integrated, consistent and potentially equitable manner I note this difference. In Appendix 1 I have not recommended a change to the number within Condition 41 but have highlighted the location where this inconsistency arises.

35 The BIC proposed conditions do not address all of the receiving environments that Meridian sought be included. This includes the Upper Ohau River and Lake Ruataniwha. Currently limits are set within the LWRP for the Upper Ohau River and Lake Ruataniwha through the general limits applying to rivers and artificial lakes, but not within PC5. Meridian through its submission and evidence to PC5 is seeking that specific water quality outcomes and limits be established for Lake Ruataniwha with a TLI that better reflects the actual water quality. Through PC5 Meridian is also seeking the specified limits for Kellands Pond and Wairepo Arm be amended.

36 The PC5 hearings are currently underway. A range of submissions and further submissions have been lodged seeking amendments to the Proposed PC5 provisions. At this time there is
no certainty as to what the final PC5 provisions will be. In my view, this does affect the amount of weight that can be placed on the proposed PC5 provisions in this hearing. With respect to new provisions that submitters may be seeking be included within PC5 I consider that there can be no statutory no weight placed on these at this time.

37 In determining what conditions are appropriately imposed on the BIC consents I consider it is the operative LWRP provisions that should be given most weight. At this time I do not consider it necessary to impose limits, water quality triggers, monitoring and responses for Lake Ruataniwha. This is because as an artificial lake under the LWRP the TLI specified for this waterbody is 4.0 when as I understand the existing water quality is likely to be significantly better than this. On this basis any condition imposed on the BIC consents for Lake Ruataniwha (set at the current LWRP TLI) is not likely to be effective to signal changes in water quality. With respect to Kellands Pond and Wairepo Arm I consider the limits put forward by BIC in Proposed Condition 38 is at this time appropriate using the LWRP as the reference point. Therefore, given the current statutory environment I am supportive of conditions 37 and 38 proposed by BIC.

38 While I have placed greater weight on the LWRP provisions rather than PC5 I am supportive of a review condition being imposed on any consent, if granted. Once PC5 becomes operative, if it imposes any new minimum standards of water quality, and if the regional council considers it appropriate, ECAN can review the conditions of any existing permit to enable the new standards set by the rule to be met. I consider this provides an ability for any consents granted at this time, in advance of PC5 to be reviewed to fall in line should PC5 impose new water quality standards.

39 Irrespective of whether PC5 existed for a proposal of the scale and nature of BIC I would be supportive of a review condition being imposed on any consent. This will enable any adverse effect on the environment that may be appropriate to deal with at a later stage, adoption of best practicable option to reduce or remove any adverse effect of a discharge or for any other purpose specified in the consent to be addressed. I note BIC have proposed a review condition being condition 45 which would enable future changes in nutrient management to be reconsidered in a future review, if necessary. I am supportive of this being included if consent if granted subject to minor amendment to correct the references to the relevant sections of the RMA from "128(a) and 128(b)" to read "128(1)(a) and 128(1)(b)". I have reflected this minor change in Appendix 1.

40 I consider that the matters contained in the Proposed BIC conditions 37-46 are valid matters that conditions can be imposed under Section 108 and 128 of the RMA. I find there is support for the imposition of such conditions to achieve Objectives 3.1, 3.2, 3.5, 3.6, 3.7, 3.8 3.9, 3.12, 3.24 and Policies 4.1, 4.2, 4.8A, 4.8B, and Policies 4.13, 4.14 and 4.34 of the LWRP. I support these conditions, subject to the changes I have identified in Appendix 1.

Dated 3 October 2016

Jane Whyte

12 Section 128(1)(b)
13 Section 128(1)(a)(i)-(iii)
Appendix 1

Changes to the BIC proposed conditions are shown as additions bold and underlined text and deletions bold and struck through text.

| 12 | Irrigation shall not occur if:  
| a. |  
| i. | the soil moisture content of the top 60 cm of soil exceeds **90%** [95%] of the profile available water; or  
| ii. | the application of irrigation water results in the top 60 cm of soil exceeding **90%** [95%] of the profile available water; and |

| 21 | Nitrogen and phosphorus losses from farm activities to be undertaken in the forthcoming year are not to exceed those resulting from the farming activities described in the Overseer input file:  
| 1. | The Overseer input file is defined as “TRIM no [to be inserted input file is to be proposed file]” attached to and forming part of this consent.  
| 2. | ‘Forthcoming year’ means the period 1 July to 30 June. |

| 22 | a. Using the Overseer input file referred to in condition 21, a report shall be prepared not less than one month prior to the commencement of the irrigation season, calculating the losses of nitrogen and phosphorus under the latest version of the Overseer model and these losses shall be referred to as the Nutrient Discharge Allowance (“NDA”).  
| i. | Except that if the same version of Overseer has been submitted previously in relation to this consent then no report is required under condition 22(a).  
| b. | Where the NDA is to be reduced by the application of an Adaptive Management condition, the reduced NDA shall apply.  

**Advisory note:** The conditions of this consent do not specify the quantity (kg/annum) amount of nitrogen or phosphorus. Under version 6.2.2 of the Overseer model the NDA for the properties was calculated to be:  

| a. | For properties (and parts of properties) within the Ahuriri Zone:  
| i. | **99,297 90742** kg of nitrogen; and  
| ii. | **1,430 1,391** kg of phosphorus.  
| b. | For properties (and parts of properties) within the Sensitive Lake Zone:  
| i. | **134,626 112,284** kg of nitrogen; and  
| ii. | **1,358 1,610** kg of phosphorus.  
| c. | For properties (and parts of properties) within the Haldon Zone:  
| i. | **65,199 67,468** kg of nitrogen; and  

ii. 148,568 kg of phosphorus.

The NDA of the BIC scheme is 299,122, 270,494 kg of nitrogen and 2,936, 3,569 kg of phosphorus.

Later versions of Overseer (using the same input TRIM files) may produce a different value for the NDA.

31

Irrigation Infrastructure

The consent holder shall ensure that all new irrigation infrastructure from the commencement of this consent (i.e. excluding irrigation infrastructure put in place under consent CRC981619.1) is:

a. Designed and certified by a suitably qualified and experienced expert in accordance with the Irrigation New Zealand ‘Code of Practice for the Design of Irrigation Systems in New Zealand, October 2012’ and ‘Design Standards for Irrigation Systems in New Zealand, October 2012’. Copies of certified design documents shall be provided to the Canterbury Regional Council upon request; and

b. Tested by a suitably qualified and experienced expert within 12 months of the first installation of the new irrigation infrastructure and every five years thereafter in accordance with the ‘Irrigation Evaluation Code of Practice, February 2006, Revised April 12 April 2010’.

38

If the monitoring undertaken in accordance with Condition 37 shows that the average TLI [fixed in accordance with a three year rolling average as ascribed by the Plan] for the 1 - 10 m depth integrated samples for either the Ahuriri Arm monitoring site, the Haldon Arm monitoring site or the Lower Benmore monitoring site, Wairepo Arm or Kellands Pond monitoring site over the period December to April is greater than 2.75 (early warning trigger) [3.75 (early warning trigger) for Wairepo Arm or Kellands Pond], then:

a. The NDA within the relevant zone (i.e. the zone within which the exceedance of the trigger has occurred), as specified in Condition 20, shall be reduced by 5% x Irrigation Proportion Factor (IPF) for the irrigation season subsequent to the monitoring period. The IPF shall be the proportion of the area within the relevant zone authorised for irrigation under this resource consent divided by the total scheme area within the relevant zone; and

b. Unless the TLI corrects to be below the early warning trigger as a result of subsequent testing, then the reduction of 5% shall continue for an initial period of 3 years [the first NDA reduction].

c. A report into the cause of the breach of the environmental standard early warning trigger shall be prepared by a person with an appropriate post-graduate science qualification, by 30 July following the sampling. A copy of this report shall be provided to the Canterbury Regional Council Attention: RMA Compliance and Enforcement Manager, by 30 August following the sampling. The impact of this report is set out below.
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| 39   | If a reduction in nutrient loading is required under Condition 38(a) and monitoring in the period that that reduction applies shows that the average TLI for the 1 – 10 m depth integrated samples for the monitoring site over the period December to April:  
   a. Continues to be greater than 2.75 but does not exceed 3.0 *(other than for Wairepo Arm and Kellands Pond)* or 3.75 but does not exceed 4.0 *(other than for Wairepo Arm and Kellands Pond)* then there shall be a further NDA reduction of 5% x IPF for the subsequent irrigation season, up to a maximum of three irrigation seasons (the second 15% reduction over 3 years), or until the revised NDAs are equal to Good Management Practice, whichever is the greater.
   Is less than or equal to 2.75 *(other than for Wairepo Arm and Kellands Pond)* or 3.75 for Wairepo Arm and Kellands Pond, then for the subsequent season the full NDA for the scheme, as specified in Condition 20 shall be restored. |
| 40   | If the TLI for the 1 – 10m depth integrated samples for the monitoring site over the period December to April continue to be greater than 2.75, but less than 3.0 *(other than for Wairepo Arm and Kellands Pond)* or 3.75 but does not exceed 4.0 *(other than for Wairepo Arm and Kellands Pond)*, the consent holder is not required to make the second NDA reduction, until such a time that the Canterbury Regional Council determines that 75% by area of the consented nutrient loss from consented farming and aquaculture activities in the relevant catchment is occurring at GMP levels. |
| 41   | If a reduction in nutrient loading is required under Condition 38(a) and monitoring in the period that that reduction applies shows that the average TLI for the 1 – 10 m depth integrated samples for either the Ahuriri Arm monitoring site or the Lower Benmore monitoring site over the period December to April:  
   a. Is greater than 3.0 *(environmental trigger)* *(other than for Wairepo Arm and Kellands Pond)* or 4.0 *(environmental trigger)* *(other than for Wairepo Arm and Kellands Pond)*, then there shall be a further NDA reduction of 5% x IPF for three subsequent irrigation seasons, or until NDA losses are less than GMP, whichever is the greatest, unless the consent holder has already undertaken reductions in accordance with Condition 39, and is operating at or below GMP.  
   b. The consent holder is not required to make any further reductions if the TLI level continues to be greater than the early warning trigger, or the environmental trigger, until such a time that the Canterbury Regional Council determines that 75% of the nutrient loss from consented farming and aquaculture activities is occurring at GMP levels.  
   c. Is less than or equal to 2.75, then for the subsequent season the full NDA for the property, as specified in Condition 20 shall be restored. |