

## VARIATION 1 TO PLWRP - QUESTIONS ARISING FROM SECTION 42A REPORT

### Page 163 – para 11.77, last sentence:

Can you clarify what this means and if any amendments are recommended?

*This paragraph attempts to explain and justify why two spring-fed waterways (Boggy Creek and Doyleston Drain) are excluded from the limits in Table 11(k). The last sentence relates to possible uncertainty as to how management units are defined in the pLWRP. At this stage a conservative approach is favoured and no changes to Table 11(k) are recommended.*

### Page 169 – Rule 11.5.9

Why is the wording in Rule 11.5.9 condition 2 different from that in Rule 11.5.8 condition 3 regarding provision of the FEP to CRC?

Why is the quality of the FEP a matter of discretion (MOD 1) if it must be prepared in accordance with Schedule 7 as condition of accessing this rule? Also, MOD 1 does not seem to make grammatical sense?

*The main reason for the difference is that Rule 11.5.8 relates to a permitted activity, whereas 11.5.9 is within the framework of a restricted discretionary activity. Inherently 11.5.9 would require provision of the Farm Environment Plan to the Regional Council, as one of the matters of discretion relates to the Farm Environment Plan.*

*It would appear that there are some words missing from the matter of discretion relating to the Farm Environment Plan. It would be preferable if this matter of discretion was identical to the matter of discretion used in the region-wide provisions, which reads “the quality of, compliance with and auditing of the farm management plan;”*

### Page 177 – para 11.168

Can you explain what these errors were?

If the percentages for the land uses listed in para 11.156 are reduced as sought by Beef + Lamb, what does that mean for the remaining percentages? Won't they need to increase accordingly?

*The error was made as a result of inadvertently reversing the mitigation cost and the percentage change in migration achieved from Tables 1 and 2 (pages 154 and 155), Appendix 8 of the Technical Overview report (Robson, 2014).*

*It is correct that this results in a small increase in the mitigation from other land uses. However because sheep and beef are such a small part of the overall mitigation contribution, the changes are very minor and largely within the rounding to the nearest whole number.*

**Page 178 – para 11.172**

Has the Environment Court’s decision on the One Plan been considered, specifically paragraph 5-8 on page 5-6 of the Decision?

*The Environment Court’s decision on the One Plan was not specifically considered at the time of analysing these provisions. On reflection, it is relevant in that it addresses the arguments regarding delay with respect to incomplete or uncertain information.*

**Page 182 – para 11.199**

Can we please be provided with copies of Central Plains Water’s relevant consent conditions that are referred to?

*Hard copies are provided separately.*

**Page 202 -Para 11.297**

If we delete the allocation for community sewage schemes and industrial and trade processes, wouldn’t CRC still need to account for those losses in term of the overall catchment load limit? Namely what is gained by the recommended deletion that outweighs the loss of specificity?

*There are both positives and negatives with respect to the recommended provisions. The removal of the load limit for industrial and community discharges is certainly a reduction in specificity. However, it is only a very small fraction of the total nitrogen being discharged in the catchment.*

*The suggested provisions enable existing discharges to be managed in accordance with their existing consents and best practicable option, and the growth in any industrial or community discharges effectively needs to be offset by reduction in farming discharges from the relevant land.*

*It is also acknowledged that there are issues with measurements and estimation of the nitrogen component of the existing industrial and community discharges and a number of submissions have been lodged opposing these provisions.*

**Page 203 – Policy 11.4.7 and Page 204 – Policy 11.4.10**

Is clause (2) necessary given that consent holders must already comply with their consent conditions?

*The subsection in each of these policies requiring compliance with existing discharge permits was an attempt to confirm that these discharge permits would not necessarily be reviewed when the Variation becomes operative.*

*On this basis, the inclusion within the policy is possibly somewhat clumsy, and a note to this effect may be a more appropriate way of signalling this intention.*

**Page 204**

Does the deletion of these rules mean that community wastewater discharges continue to be managed under pLWRP Rule 5.84 as a discretionary activity?

*Yes, the intention is that community waste water discharges would fall to a discretionary activity under the region-wide provisions.*

**Page 205 – Rule 11.5.25**

What is the intent of condition 1 – is it intended to limit the application of the Rule to replacement consents (ie preclude new consents)?

*The intention of this rule is to enable the continuation of existing discharges, including the renewal of expiring consents. In addition, any new consents are essentially required to have no net increase in nitrogen discharges above that of the existing farming activity.*

*I note that I have had some enquiries from submitters about the functioning of this rule, and the rule could be improved in terms of clarity and in terms of the situations addressed. These matters will become clearer through the evidence to be presented, and it is likely that officers will take the opportunity to recommend further adjustment during the right of reply.*

What is the relationship of Rule 11.5.25 to pLWRP Rule 5.92 which is also a discretionary activity?

*Rule 11.5.25 would apply in the Selwyn-Te Waihora zone, and would replace Rule 5.92 in this catchment, in accordance with Rule 5.2. It is noted that Rule 11.5.25 has conditions to be complied with, in order to be a discretionary activity. Non-complying activity status is an additional category under the Selwyn-Te Waihora zone provisions.*

**Page 205 – Rule 11.5.10**

What is the intent of Rule 11.5.10?

*The intent of Rule 11.5.10 is to provide for an agglomeration of farms to operate under a single nutrient discharge maximum, in a similar manner to region-wide Rule 5.46.*

Is it correct that none of the other nutrient management rules default to Rule 11.5.10?

*Yes, none of the other nutrient management rules default to 11.5.10.*

How does this rule relate to the other nutrient management rules – namely when would one be captured by Rule 11.5.10 and not Rule 11.5.9 for example?

*The intention behind Rule 11.5.10 is to essentially replicate region-wide Rule 5.46 within the Selwyn-Te Waihora sub-regional rules. The intention is the same as for the region-wide rules, whereby this rule would enable a number of farmers, potentially with some properties that vary considerably in their levels of development and associated nutrient discharges to operate in a way that leads to overall efficiencies in terms of nutrient discharges while allowing some development.*

If Rule 11.5.10 is designed to allow N leaching “unders and overs” (my words) amongst a group of farms how does it work given that a “farming enterprise” is defined as a “single management unit”. That wouldn’t encompass separate farms would it?

*The definition potentially encompasses a number of farms that constitute a “single operating unit” for the purposes of nutrient management alone. As I understand it, this would enable farmers to work together, to manage their nutrient discharges as a group. Whether, in reality, this is practically able to occur has not, in my experience, been significantly tested. However, as a full discretionary activity, the various permutations, monitoring and peculiarities of the individual situations can be appropriately managed.*

**Page 206 – para 11.307**

Assume some underlining is missing from the start of the Rule?

*Yes, some underlining is missing from this rule – the “Until 1 January 2017...” should be underlined.*

**Page 237 – Policy 11.4.20**

How would clause (a) be given effect to by a decision maker?

*Policy 11.4.20 supports the use of Managed Aquifer Recharge (MAR) and Targeted Stream Augmentation (TSA) to improve low flows in the lowland spring-fed streams with benefits for in-stream ecological health and cultural health.*

*Clause (a) states “Adverse effects on cultural values, including those associated with unnatural mixing of waters are satisfactorily avoided, remedied or mitigated”.*

*For the decision maker to give effect to this clause, an applicant would need to undertake some level of cultural impact assessment and report on it. It is expected this would include specific consideration of the rivers within the Cultural Landscape/Values Management Area listed in Variation 1 alongside primary information sources that may include:*

- *COMAR (Cultural Opportunities Mapping and Response) Report<sup>1</sup>. This is specific about cultural values (including freshwater species), perceived threats and opportunities for specific rivers and sites;*
- *Mahaanui Iwi Management Plan<sup>2</sup>. Section 6.11 covers Te Waihora; and*
- *Consultation with Ngāi Tahu and Te Taumutu rūnanga as part of the development of any scheme.*

*It is acknowledged that the word “satisfactorily” does introduce subjectivity – this could be deleted.*

With regard to clause (b), corresponding Rule 11.5.40 (page 288) doesn’t have a matter of discretion relating to community drinking water supplies. Is that matter sufficiently covered off by condition 3 of Rule 11.5.40?

*Clause (b) reads: “Adverse effects on the availability and quality of community drinking water supplies are avoided; and”. The term ‘community drinking water supplies’ is intended to cover public drinking water supplies in the widest sense.*

*Condition 3 or Rule 11.5.40 reads: “The discharge is not within a Group or Community Drinking Water Protection Zone as set out in Schedule1; and”*

*Condition 3 would cover off the effects of a discharge from a MAR or TSA scheme on the quality of Group and Community Drinking-water Supplies as defined in Schedule 1.*

*The rule as written would not provide scope to address effects on individual household supply wells or surface water takes that do not fall within the definition of a Group or Community Drinking-water supplies or within Protection Zones defined in Schedule 1. Nor does the Rule specifically cover the effects on the ‘availability’ of drinking water.*

*It is agreed that to provide scope for the decision maker to give full effect to Policy 11.4.30 clause (b) a further matter of discretion could be included along the lines of “the actual or potential effects of the discharge on the availability, quality and safety of human drinking water”.*

Clauses (c), (d) and (e) don’t seem to be covered by the matters of discretion in Rule 11.5.40?

*It is acknowledged that Policy 11.4.20 and Rule 11.5.40 do not adequately align, which is an error. As pointed out the matters of discretion in Rule 11.5.40 require amending to cover-off*

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<sup>1</sup> Cultural Values, Flow & Water Management Issues for the Waimakariri/Selwyn-Te Waihora Catchments. Environment Canterbury Report R13/116 (Tipa and Associates 2013).

<sup>2</sup> See Section 6.11 (Te Waihora) of the Mahaanui Iwi Management Plan (February 2013) <http://mkt.co.nz/mahaanui-iwi-management-plan/>

*policy conditions (c), (d) and (e) fish passage, wetlands and indigenous biodiversity respectively. It is proposed this be addressed in the CRC's Right of Reply at the Hearing.*

**Page 263 – para 13.197**

A note is recommended but not provided – should it be?

*Yes, this is an oversight. It is intended that for clarity Note 2 under Rule 5.11 in Section 5 be repeated under Rule 11.5.30. This reads:*

*Note: Nothing in this Plan affects an individual's right to take water in accordance with section 14(3)(b) of the RMA.*

**Page 264 – para 13.205**

Why is CRC interpreting Rules 5.113 and 5.114 in the manner stated when the rules themselves do not say that?

*The interpretation of the pLWRP rules is undertaken by a team of people in the CRC's consents and compliance groups. I understand that the interpretation of Rules 5.113 and 5.114 are currently under review.*

If an irrigation take consent is used for another purpose (such as dairy shed water) wouldn't that be a breach of the irrigation take's consent conditions?

*That is likely to be the case, depending on the application lodged and conditions relating to the use of water that are imposed on the consent.*

In light of that, is Recommendation R11.5.31A appropriate?

*The recommendation not to add this rule remains appropriate. The suggested rule re-states Rule 5.114, which continues to apply in this catchment in any event. The addition is of a note, which is more appropriately dealt with through the region-wide provisions, as it equally applies to all areas of the Region.*

**Page 276 – para 13.268**

Can you clarify why the suggested amendment was not adopted as it would seem to add clarity to the Rule?

*The wording of Rule 11.5.33 and use of the term 'Despite' is clear – i.e. that regardless of Rule 11.5.32 a consent holder with an existing surface water take or groundwater take with a 'Direct' or 'High' stream depletion effect greater than 5 L/s could change the point of abstraction to a deep groundwater source.*

**Page 277 – Rule 11.5.33**

Are there any submissions asking for Rule 11.5.33 to be a controlled activity and if so was any thought given to that?

*Rule 11.5.33 received 16 submissions and 11 further submissions. None seek that the activity status be changed from a restricted discretionary activity to a controlled activity. On this basis, no thought was given to making Rule 11.5.33 a controlled activity.*

Would it be helpful to roll the text from conditions 1 and 2 into the first paragraph of the rule so that it is clearer what actual activity the rule is designed to cover – namely that the new deep groundwater take is to substitute or replace the existing surface take or existing stream depleting groundwater take?

*Yes this would make the activity the Rule is intended to cover clearer. Rule 11.5.33 could be amended to read as follows:*

**Page 333 – Policy 11.4.32**

Clause (c) – how can decision-makers consider proposed community water supplies?

*The inclusion of ‘proposed’ community water supplies was to ensure that as part of any storage proposal the developer and decision maker consider if the footprint and operation of storage dam is likely to impact on community water supplies that may be planned and identified in planning documents.*

*Selwyn District Council’s Long Term Plan 2012/2022 states that the security of the District’s water supply is paramount. The Long Term Plan highlights significant activities planned under the Council’s 5 “Waters Services” [Community water supplies; land drainage; stormwater; water races; and community wastewater schemes] to cater for significant population growth predicted for the District, climate change and changes to legislation.*

*Major projects identified include \$4.2 million for new planned wells to meet growth for Darfield, Lincoln, Rolleston and Prebbleton<sup>3</sup>. Of these, Darfield is the only township within the upper plains area.*

*However, a storage dam in the foothills or upper plains is unlikely to have an impact on the availability and quality of proposed community water supplies. Particularly as most of the population growth and demand for additional drinking water will come from the major townships in the lower catchment (except Darfield).*

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<sup>3</sup> <http://www.selwyn.govt.nz/council/plans/long-term-plan-2012-2022> (See page 83)

*The words “existing” and “proposed” in clause (c) could be deleted such that the clause reads “Adverse effects on the availability and quality of community drinking water supplies are avoided; and”*

*Although less specific, this would not completely exclude consideration of planned water supplies should this be necessary in a particular circumstance.*

Clause (d) – how in practice can the inundation of a wetland be remedied?

Clause (g) - how in practice can the inundation of a spawning area be remedied?

*I agreed that the term ‘remedy’ does not sit well in this circumstance. To remedy the inundation implies correcting or reversing the inundation of a wetland or spawning area.*

*Avoiding and mitigating are more appropriate options. This would allow for offsetting and creating a wetland or spawning areas in a different location or site in circumstances where this may be acceptable. The CRPS Policy 9.3.6 provides strong criteria and limitations on the use of biodiversity offsets.*

### **Page 393 – third text box**

The recommended amendment to Policy 11.4.32 is not carried over to the recommendations on pages 332 and 333. Should it have been?

*That the recommended text including “adverse effects on surface water drainage are avoided or mitigated” was not carried over into the discussion and Recommendation on Policy 11.4.32 is an error.*

### **Additional Questions s42A**

1. In Policy 11.4.13, does “From 1 January 2017” mean “by 31 December 2016”?  
Yes
2. Ditto for Rule 11.5.8?  
*Effectively yes. However, the way the Rule is structured, the Rule needs to maintain the current “From...” wording.*
3. Ditto for Policy 11.4.14 – does “From 1 January 2022” mean “by 31 December 2021”?  
Yes



4. What are the implications of complying with 11.4.17(b) if the nitrogen loss rates referred to in Policy 11.4.14(b) are not available (for another 12 – 18 months) if a property converts under the scenario suggested in 11.4.17 before then?

*The describing and calculation of good management practice loss rates on an individual property is able to be undertaken on a case-by-case basis, albeit with less certainty than will be able to be undertaken in the future. The methodology behind the MGM project, including the methodology to establish good management practice loss rates is becoming more certain. In the interim, establishing good management practice on an individual property would need to occur for the purposes of Policy 11.4.17(b). Effectively, this policy is targeted at additional irrigation under the irrigation scheme rules.*

5. Should the “and” in Rule 11.5.6 (1) be an “or” to align with Rule 5.41?

*No – I understand it is an intentional change.*

6. Does the 4830 tonnes/year figure in Table 11(i) include the 62 tonnes/year load for sewage and the 106 tonnes/year load for industry or are those loads additional to the 4830 tonnes/year?

*The 62 tonnes/year for sewage and 106 tonnes/year for industry are additional loads. No recommendation was made on potential changes to the 4830 tonnes/year figure. However, it is expected that the final catchment limit will need to include sewage and industrial losses.*

7. Is Lake Ellesmere is an ICOL (intermittently closing and opening lagoon) or a brackish lake?

*While there is no authoritative list of ICOLs, it is my understanding that Ellesmere/Te Waihora does “intermittently close and open” and the majority view appears to be that it is an ICOL. That said, given that Environment Canterbury has published a partly revised implementation programme for the NPS 2014, definitively answering this question may not be presently necessary.*