Tabled at Hearing 01/10/14

In the matter of the Resource Management Act 1991

And

In the matter Variation 1 to the Land and Water Regional Plan

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LEGAL SUBMISSIONS ON BEHALF OF SYNLAIT MILK LIMITED

1 October 2014

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INTRODUCTION

1 These submissions are on behalf of Synlait Milk Limited ("Synlait"), which operates a dairy processing plant in the Selwyn District. This involves the need to abstract water for use within the plant, and the discharge of wastewater resulting from milk processing via irrigation to land. The proposed Variation 1 provisions therefore impact on key aspects of Synlait's operation. Further background in relation to Synlait will be presented in the evidence of Mr Betteridge, General Manager at Synlait.

2 Industrial use of water involves a number of key differences from water used for farm operations. For example the expert evidence that has been prepared by Ms Hilary Lough of Pattle Delamore Partners on behalf of Synlait shows that the Synlait plant operation can achieve a net aquifer gain because the volume of water irrigated to land is greater than the volume of water abstracted. This means that the groundwater take by Synlait is a non consumptive one.

3 Other examples of practical differences are as follows:

3.1 Water use is not seasonally driven to the same degree;

3.2 The demand for certain product lines can drive water volumes taken for industrial purposes;

3.3 Industrial uses have greater latitude to provide for adaptive re-use of water – with irrigation for farming being the best and most practical example. However, even within the processing plant, husbanding water resources, is driven by management practices.

3.4 Water demand does not follow the same daily and yearly demand cycles as for irrigation.

4 It is considered that differentiation is warranted within the provisions, including those relating to water takes and transfers, for activities such as the Synlait operation which are non consumptive. This is one of the key issues addressed in this submission.

5 A further key issue is the provisions controlling nitrogen discharge from industrial and trade waste processes. Whilst amendments recommended in

the section 42A report go some way to addressing Synlait's concerns in relation to this issue, particularly the recommendation to delete the industrial and trade allocation from Table 11(i), further amendments are sought in order to provide greater flexibility in the way that the wastewater is disposed of.

6 These submissions also seek a number of amendments to ensure the provisions are achievable and practical.

MANUFACTURING PLANT

Policy 11.4.23 and Rule 11.5.32

7 Policy 11.4.23 provides:

> *Only reallocate water to existing resource consent holders at a rate and volume that reflects demonstrated use.*

8 Synlait submitted that this policy should not apply to industrial water users for the reasons set out in its submission.

9 The section 42A report agrees that Policy 11.4.23 should not apply to industrial and trade activities. The recommendation is that "demonstrated use" be changed to "reasonable use". The report goes on to state that an amendment to exempt industrial abstractions is not necessary if this change is made, because the Schedule 10 reasonable use test does not apply to such abstractions.[1]

10 This recommendation is supported by Synlait, but it is considered that the provisions need to be made more explicit that the reasonable use test does not apply to industrial or trade abstractions to ensure there is no ambiguity between:

10.1 Policy 11.4.23.

10.2 Rule 11.5.32 (which states in condition 6 that for the renewal of an existing irrigation take the annual volume and maximum rate of take has been calculated in accordance with method 1 in Schedule 10); and

[1] Paragraph 13.96 of Section 42A Report.

10.3 Schedule 10 (Reasonable Use Test).

11 In addition to the concern over ensuring further clarity is provided within the provisions for industrial and trade abstractions, Synlait also has concerns regarding method 1 in Schedule 10 (which sets out the reasonable use test) and how this may affect irrigators. This method is based on records of past use. Whilst this is supported in principle, the method gives no consideration of the quality or extent of records. This is addressed in the evidence of Ms Lough.[2]

Relief sought

12 Synlait seek:

12.1 That Policy 11.4.23 be amended to change "demonstrated use" to "reasonable use" as recommended in the section 42A report.

12.2 In order to provide further clarity, that a note be added to Policy 11.4.23 in accordance with that set out in the evidence of S Dines on behalf of Fonterra as follows:[3]

Note: This policy and the reasonable use test in Schedule 10 do not apply to industrial and trade processes that take water and then discharge wastewater or water by irrigation to land under an authorised discharge permit.

13 That rule 11.5.32 and 11.5.33 allow for other methods in Schedule 10 to be used (other than Method 1).

Policy 11.4.10; Table 11(i); Rules 11.5.25 and 11.5.26

14 These provisions introduce an industrial nitrogen limit of 106 T/year, which is intended to cover existing discharges with a small amount of head room for growth. However as stated in Synlait's submission, the allocation in Table 11(i) is incorrect and does not include all of Synlait's consented discharges.

15 The Staff Report recommends deleting the specific limit for industrial N loss from Table 11(i) and this is supported by Synlait.

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[2] Paragraph 42.
[3] Statement of evidence of Sharon Dines, paragraph 42.

16 However, as stated in the evidence of Ms Lough, were this table to be retained then the nitrogen loss from the consented sludge application (30 tonnes), which is currently missing from the table, should be added to Synlait's nitrogen loss number of 42 tonnes, giving a total nitrogen loss of 72 tonnes.[4]

17 The Staff Report recommends an amended rule 11.5.25. Further amendments are however sought in order to provide flexibility for industrial operations which spread waste over a number of different properties.

18 Synlait suggest the only practical solution is to introduce the concept of an industrial trade enterprise, a similar concept to a farming enterprise. As will be explained in the Synlait's evidence, this will allow Synlait the practical ability to manage a defined quantity of N rich by-product from its DAF plant in a manner which can best provide for the uptake of N losses in the root zone. As stated in the evidence of Ms Lough, this approach will continue to ensure that there will be no net increase in nitrogen loss as a result of the discharge.

19 Synlait also seek that the reference to "best practicable option" be changed to "good management practice".

20 It is considered that the best practical option is unduly subjective, uncertain and will differ from site to site. It is considered that good management practice is a clearer requirement which leaves open different options for management and allows this to be considered based on environmental effects arising from each discharge.

Relief sought

21 That the limit for industrial N loss be deleted from Table 11(i) as recommended in the section 42A report.

22 That rule 11.5.25 be amended as follows:

11.5.25

Despite rules 11.5.6 to 11.5.15, within the Selwyn Te Waihora catchment the discharge of any wastewater, liquid waste or sludge waste from an industrial or trade process, including livestock processing, excluding sewerage, into or

[4] Statement of evidence of Hilary Lough, paragraph 38.

onto land, or into or onto land in circumstances where a contaminant may enter water is a discretionary activity where the following conditions are met:

1. *The resource consent application is for the renewal or replacement of an existing resource consent for discharge from an industrial or trade process granted prior to 13 February 2014; or*

2. *Where the nitrogen loss from the discharge is the same or less than:*

a) *The lawfully permissible nitrogen loss from the farming activity or the farming enterprise that is replaced; or*

b) *The total nitrogen loss authorised by resource consents held for an Industrial and Trade Process Enterprise.*

3. *For all discharges, good management practice is followed for the treatment and discharge.*

Add definition of "*Industrial and Trade Process Enterprise*":

Means an aggregation of parcels of land held in single or multiple ownership (whether or not held in common ownership) that constitutes a single operating unit for the purpose of managing the discharge of wastewater, liquid waste, or sludge waste from an industrial or trade process located within the Selwyn Waihora Catchment.

NUTRIENT MANAGEMENT

Policy 11.4.6

23 This provides:

> *Limit the total nitrogen load entering Te Waihora/Lake Ellesmere by restricting losses of nitrogen from farming activities, industrial and trade process and community sewerage systems in accordance with the target (the limit to be met over time) and limits in Table 11(i).*

24 The submission by Synlait sought to ensure the numbers specified in Table 11(i) sit outside the plan to enable more streamlined changes to occur as new limits are considered. The submission also sought that timeframes be set for review of the allocation figures throughout the life of the plan.

25 The staff report states that it is outside the scope of the Variation to commit future Councils to reviews and potential revision of the policies and limits and targets.

26 However we are aware of other situations where a proposed plan has stipulated timeframes for reviews. For example Plan Change 6 (Tukituki Catchment) as determined by the Board of Enquiry contained a clause stating:

> *Reviewing the need, in 2020 and 2025, to increase the Table 5.9.4 and 5.9.5 allocation limits to include a provision for existing and future s14(3)(b) takes for animal drinking water in the event of a Community Irrigation Scheme progressing.*

27 The staff report states that it is considered that reliance on the legislative reporting and review regime is considered adequate.[5] If this is the approach taken we emphasise how important it is that robust reviews do in fact occur to ensure that correct levels are being worked to as science evolves.

Relief sought

28 That Table 11(i) be amended as recommended in the section 42A report.

29 That were the industrial nitrogen limit retained in Table 11(i), that provisions be added requiring that reviews be undertaken of Table 11(i).

Policy 11.4.17

30 This policy provides:

> *To achieve the farming activity water quality targets in Section 11.7.3 require all farming activities within the command area of any Irrigation Scheme listed in Table 11(j), where they are irrigated with water from the Scheme:*
>
> (a) *To collectively not exceed the Irrigation Scheme Nitrogen Limits in Table 11(j); and*
>
> (b) *Where properties convert from dry land to irrigated land use, the nitrogen loss rates from the outset shall be managed in accordance with Policy 11.4.14(b).*

31 Policy 11.4.14(b) sets out percentage reductions in nitrogen loss rates that must be achieved, which for dairy is 30%.

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[5] Variation 1 pLWRP – Section 42A Report, paragraph 11.52.

32 Synlait seek that clause (b) of this policy be deleted. It is impossible to achieve clause (b) until 2017 when MGM is known, as nitrogen loss rates in 11.4.14(b) cannot be determined until that time. It is considered that retention of clause (a) is sufficient.

Relief Sought

33 Delete clause (b) from Policy 11.4.17.

Rule 11.5.6

34 This rule provides:

> *... the use of land for a farming activity in the Selwyn Waihora catchment is a permitted activity provided the following conditions are met:*
>
> 1. *The property is less than 5 hectares; and*
> 2. *The nitrogen loss calculation for the property does not exceed 15kg per hectare per annum.*

35 The submission by Synlait states that this rule should offer better clarity for land owners who receive industrial waste as a source of irrigation and/or nutrients. It would appear that while the industrial or trade waste may be consented under section 15, the section 9 land use provision would still apply and both the land owner and industrial user would need resource consent.

Relief Sought

36 To resolve this issue Synlait seek the addition of a third condition as follows:

> 3. *The property is used for the discharge of wastewater or liquid waste from an industrial or trade process and a resource consent has been granted for that discharge that limits nitrogen loss from that property.*

Rule 11.5.7 and definition of "nitrogen loss calculation"

37 Conditions 1 and 2 of this rule refer to the "nitrogen loss calculation" for the property. The definition of "nitrogen loss calculation" is contained within the region-wide definitions of the pLWRP.

38 The submission by Synlait sought that the definition of "nitrogen loss calculation" be amended to enable effective farm management decisions to be made. Issues have arisen with respect to the current definition in the

pLWRP, which are recognised in the section 42A report, and are also detailed in the evidence of Gerard Willis on behalf of Dairy NZ.

39 For example the section 42A report states:[6]

> *The present definition requires a four year average. This has been accepted as causing some issues, particularly in the initial phases of implementation of the pLWRP, as farming decisions may have been taken that are not easy to change in the first year or so of the pLWRP implementation, On this basis, the CRC has published guidance, acknowledging that there is a transition required to the new regime, and accepting that the "highest" of the previous four years is acceptable in the interim, but reserves the right to take enforcement action against a farmer if the nitrogen loss calculation for the property is higher than the worst year in the nitrogen baseline period, and there is no evidence of a genuine attempt to remain within the baseline.*

40 The staff report concludes that as the variation did not seek to introduce new definitions or make changes to the region wide definitions, a change to the region wide definition would be outside the scope of the variation. Further a specific definition for the sub-regional chapter was held not to be appropriate on the basis that it will create a different basis for the sub-regional area, will lead to a general expectation in other sub-regional areas that the same principle will apply, and will likely lead to greater difficulties in achieving the nutrient target in the medium term.

41 However, it is considered inappropriate to introduce provisions that rely on a definition which is accepted to be problematic at present and it is not good planning practice to continue to rely on guidance material to make a provision in the plan workable.

42 If the Commissioners accept that the region wide definition cannot be changed then it is considered a sub regional definition would be appropriate.

43 Fonterra sought a definition that would have the effect of changing the baseline from a four-year average to an approach that allows a farmer to

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[6] Variation 1 pLWRP – Section 42A Report, paragraph 11.108.

select the average over two, three or four consecutive years over the period 2009-2013.[7] This approach is supported by Synlait.

44 Mr Willis in his evidence[8] also proposes an alternative approach to codify the Council's published implementation guidance. Mr Willis explains this would involve replacing the requirement to comply with the nitrogen baseline pre 1 January 2017 with a requirement that:

> *The nitrogen discharge for the property does not exceed the highest annual (30 June to 1 July) nitrogen loss modelled for that property over the period July 1 2009 to 30 June 2013.*

45 This alternative approach is also supported by Synlait.

Relief sought

46 Introduce a new definition of *nitrogen baseline* to apply for the Selwyn Waihora sub region; or

47 Replace the requirement to comply with the nitrogen baseline pre 1 January 2017 with the requirement set out in paragraph 44 above (together with consequential amendments to Policy 11.4.12 and Rule 11.5.7).

Rule 11.5.9

48 This rule provides that from 1 January 2017, the use of land for a farming activity is a restricted discretionary activity provided the conditions set out are met. Condition 2 requires that a Farm Environment Plan has been prepared in accordance with Schedule 7 Part A.

49 The first matter of discretion listed is:

> *The quality of, compliance with the Farm Environment Plan; and …*

50 However the quality of and compliance with the Farm Environment Plan will be difficult to determine at the consent stage.

Relief Sought

51 Synlait seek that this matter of discretion be amended to read:

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[7] Statement of Evidence of Gerard Willis, paragraph 63.
[8] Statement of evidence of Gerard Willis, paragraph 70.

The effectiveness of the Farm Environment Plan; and ...

Policy 11.4.14

52 This policy requires percentage reductions in nitrogen loss rates from the good practice rates (from 1 January 2022).

53 This was opposed in part by Synlait as it is not robust to base reductions on EBIT (Earnings Before Interest and Tax). The problems with this approach are summarised in the evidence of Gerard Willis[9] and this is supported by Synlait.

54 Whilst Synlait are not opposed to reductions coming in at 2022, there is a need to ensure that the science and benchmarking in the intervening period is focused on enabling reductions to be robust.

55 Mr Willis suggests a preferable planning approach as being:

> *Delete the sector specific percentage reductions from Policy 11.4.14(b) (and instead make reference to Section 11.7A);*
>
> *Insert a new policy requiring a collective reduction in nitrogen loss of 14% across the catchment by 1 January 2022;*
>
> *Commit to a plan change or variation to introduce specific reduction targets to be applied in the context of individual resource consents before 1 January 2022; and*
>
> *Ensure that consents issued from 1 January 2017 include a year five review condition enabling the Council to impose a reduction on or about 1 January 2022.*

56 This approach is supported by Synlait.

Relief Sought

57 Adopt the approach proposed in the evidence of Mr Gerard Willis (as set out at paragraph 55 above.

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[9] Statement of evidence of Gerard Willis, from paragraph 94.

Rule 11.5.10

58 This rule states that the use of land for a farming activity as part of a farming enterprise in the Selwyn Waihora Catchment is a discretionary activity provided the conditions set out are met.

59 Whilst Synlait support the farm enterprise concept it seeks that the discretionary status be amended to restricted discretionary. It is unclear why this is a discretionary activity when other nutrient management rules are restricted discretionary.

Relief Sought

60 That Rule 11.5.10 be amended to restricted discretionary with the matters of discretion being as follows:

1. *The effectiveness of the Farm Environment Plan; and*
2. *Existing nitrogen and phosphorous management practices to reduce nitrogen loss; and*
3. *The nitrogen load target for farming activities in Table 11(i); and*
4. *The potential benefits of the activity to the applicant and the community and the environment.*

WATER TAKES

Policy 11.4.23

61 This has been addressed above in the context of the manufacturing plant.

Policy 11.4.24

62 This states:

> *Any replacement resource consent to take and use water for irrigation shall not include any water that has been transferred to another site and not used by the consent holder.*

63 Synlait understands that this Policy only seeks to prevent the transferor from renewing the consent they no longer hold, rather than applying to the transferee. However it is considered this should be made more explicit in the policy.

Relief Sought

64 That Policy 11.4.24 be amended as follows:

Any replacement resource consent by a transferor to take and use water for irrigation shall not include any water that has been transferred to another site and not used by the consent holder.

Policy 11.4.26

65 This provides:

> *Where a consent applicant holds shares in an irrigation scheme, limit any additional consented volumes to the volume required to meet demand conditions in eight and a half out of ten years for a system with an application efficiency of 80%.*

66 The section 42A report recommends deleting this policy. This is supported by Synlait.

Relief Sought

67 Delete Policy 11.4.26 as recommended in the section 42A report.

Policy 11.4.30

68 This Policy relates to applications by existing consent holders which have a high stream depletion effect. The policy enables those takes to be replaced with takes from deep groundwater.

69 Synlait sought a new third clause be added to this policy to enable existing resource consent holders to take groundwater where the water use is non consumptive .

70 The section 42A report does not support this change on the basis that this policy is directed at existing stream deleting takes.

71 As an alternative Synlait seeks the introduction of a new policy to enable non consumptive takes.

Relief Sought

72 That a new policy be added to enable existing resource consent holders to take groundwater where the take results in a neutral or positive water balance.

Rule 11.5.30

73 This provides that, within the Selwyn Waihora catchment, Regional Rule 5.111 shall include the following additional condition:

> 1. *The take is limited to an individual's domestic and stockwater use.*

74 This is intended to constrain an individual's permitted use of surface water to domestic needs and stock drinking water.

75 Synlait's submission opposed this in part, stating that the streams that need protecting should be identified and the rule restricted to those streams.

76 The Staff Report agrees that it is appropriate the rule be more targeted and applies to waterbodies that need protecting. The Staff Report recommends the following amended rule:

> *Within the Selwyn Te Waihora catchment Rule 5.111 does not apply within the Rakaia Selwyn and Selwyn Waimakariri Combined Surface and Groundwater Allocation Zones below State Highway 1.*

77 This amended rule is supported by Synlait.

Relief Sought

78 Amend rule 5.111 as recommended in the section 42A report.

Rule 11.5.32

79 This has been addressed above in the context of the manufacturing plant.

Rule 11.5.36

80 Condition 7 of rule 11.5.33 requires compliance with schedule 12 (well interference). If this is not complied with then the activity is prohibited. The evidence of Ms Lough outlines why prohibited activity status is inappropriate

in these circumstances.[10] It is considered that non compliance with schedule 12 should result in the activity becoming discretionary.

81 The prohibited activity rule would also apply to non consumptive takes where certain conditions of rule 11.5.32 are not met. It is considered that prohibited activity status is inappropriate for non consumptive takes. The conditions seek to prevent cumulative effects, which do not arise for non consumptive takes. It is therefore considered that discretionary activity status would be more appropriate.

Relief Sought

82 That new rules be added and rules 11.5.35 and 11.5.36 be amended as follows:

11.5.3X <u>The taking and use of surface water from a river, lake or wetland or groundwater within the Selwyn Waihora catchment and including all areas within the Little Rakaia Combined Surface and Groundwater Allocation Zone that does not meet condition 8 of Rule 11.5.32 or condition 7 of Rule 11.5.33 is a discretionary activity.</u>

<u>11.5.3X. The taking and use of surface water from a river, lake or wetland or groundwater within the Selwyn Waihora catchment and including all areas within the Little Rakaia Combined Surface and Groundwater Allocation Zone that does not meet Conditions 1, 2, 6 or 7 of Rule 11.5.32 is a discretionary activity where that taking or use results in a neutral or positive water balance.</u>

11.5.35 The taking and use of surface water from a river, lake or wetland or groundwater within the Selwyn Waihora catchment and including all areas within the Little Rakaia Combined Surface and Groundwater Allocation Zone that does not meet Conditions 3, 4, <u>or 5</u> ~~or 8~~ in Rule 11.5.32 is a non complying activity.

11.5.36. The taking and use of surface water from a river, lake or wetland or groundwater within the Selwyn Waihora catchment and including all areas within the Little Rakaia Combined Surface and Groundwater Allocation Zone that does not meet Conditions 1, 2, 6 or 7 of Rule 11.5.32 or <u>conditions 1 – 6 of</u> Rule 11.5.33 or Rule 11.5.34 is a prohibited activity

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[10] Paragraph 41.

TRANSFERS

83 The key concern for Synlait in relation to transfers is to ensure the requirement to surrender a certain portion of the take does not apply to takes that are non consumptive. This could be achieved by amendments to Rule 11.5.37 or Rule 11.5.38 as outlined below.

Policy 11.4.22, and Rule 11.5.37

84 The section 42A report recommends the deletion of clause (b) of this policy relating to the up plains transfer of groundwater permits.[11] This change is supported by Synlait.

85 Policy 11.4.22 and Rule 11.5.37 in certain circumstances requires 50% of allocated water to be surrendered when a consent transfer occurs. The evidence of Ms Lough outlines why this is not justified for non consumptive takes.[12] Changes are sought to address this issue.

Relief sought

86 Change Policy 11.4.22 in accordance with the suggestion set out in the evidence of S Dines on behalf of Fonterra as follows:[13]

> *Restrict the transfer of water permits within the Rakaia-Selwyn and Selwyn- Waimakariri water allocation zones to minimise the cumulative effects on flows in hill-fed lowland and spring-fed plains rivers from the use of allocated but unused water, by requiring that:*
>
> *(a) Irrigation scheme shareholders within the Irrigation Scheme Area shown on the Planning Maps do not transfer their permits to take and use groundwater; and*
>
> ~~*(b) No permit to take and use groundwater is transferred from down-plains to up-plains; and*~~
>
> ~~*(c) (b) In all other cases, except in relation to a community water supply, 50% of any transferred water is surrendered.*~~

[11] Section 42A Report, page 310.
[12] Paragraphs 26 – 28.
[13] Statement of evidence of Sharon Dines, paragraph 46.

(b) 50% of any transferred water is surrendered except where:

(i) the water is used for a community water supply, or

(ii) the water take is ***or will, following transfer, be*** *for an industrial activity and, when considered in conjunction with other activities on the site to which the water is transferred, results in a neutral or positive water balance.*

87 Note that the words in bold have been added to that suggested by Ms Dines to ensure it is clear that the surrender would not apply where a consent for irrigation is transferred where upon transfer it will be used for an industrial activity.

88 Change Rule 11.5.37, condition 4 as recommended in the evidence of S Dines on behalf of Fonterra[14] as follows (again with the additional words added):

> *If the transfer is within the Rakaia-Selwyn or Selwyn-Waimakariri Combined Surface and Groundwater Allocation Zones 50% of the volume of transferred water is to be surrendered. unless:*
> *(a) the water take is* ***or will, following transfer, be*** *for an industrial activity and, when considered in conjunction with other activities on the site to which the water is transferred, results in a neutral or positive water balance.*

Rule 11.5.38

89 The submission by Synlait encouraged the amendment of Rule 11.5.38 to enable water takes to be transferred to a non consumptive use as a discretionary activity, and without reduction requirements.

Relief Sought

90 Amend rule 11.5.38 by adding a new condition 2 as follows:

> *11.5.38 Despite Rule 11.5.37, the permanent transfer, in whole or in part, of a water permit to take or use surface water or groundwater in the Selwyn Waihora catchment, is a discretionary activity provided the following condition is met:*

[14] Statement of evidence of Sharon Dines, paragraph 47.

1. The take is to be transferred to a local authority and is to be used for community water supply; or

2. the water take is or will, following transfer, be for an industrial activity and, when considered in conjunction with other activities on the site to which the water is transferred, results in a neutral or positive water balance.

91 Note that this change will not be necessary if non consumptive takes are adequately catered for in rule 11.5.37 through an exemption to the clawback provisions.

Rule 11.5.39

92 This rule states that the transfer of a water permit that does not meet one of the conditions of Rule 11.5.37 or 11.5.38 is a prohibited activity.

93 Synlait consider that prohibited activity status is not warranted for takes that are non consumptive.

Relief Sought

94 Synlait seeks that where the conditions of Rule 11.5.37 are not complied with, and where the take will result in a neutral or positive water balance, it becomes a discretionary activity.

95 Note that this change will not be necessary if all non consumptive takes are a discretionary activity (see relief sought with respect to rule 11.5.38).

LAKE, CATCHMENT AND FLOW RESTORATION

Policy 11.4.1

96 Policy 11.4.1 seeks to manage water abstraction and discharge contaminants within the Selwyn Waihora Catchment to avoid cumulative effects on water quality. This was opposed by Synlait on the basis that the intention should be to avoid "adverse cumulative" effects.

97 The Section 42A report recommends that this policy be changed so that it seeks to "*avoid, remedy or mitigate adverse cumulative effects.*"[15]

98 This change is supported by Synlait.

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[15] Section 42A report, page 127.

Relief sought

99 Adopt change recommended in section 42A report.

Policies 11.4.18 and 19

100 These policies are to:

> *11.4.18 Enable lake restoration activities that re-establish aquatic plants, lake margin wetlands and remove phosphorus from lake bed sediments in Te Waihora/Lake Ellesmere.*
>
> *11.4.19 Enable catchment restoration activities that protect springheads, protect, establish or enhance plant riparian margins, create restore or enhance wetlands and target removal of macrophytes or fine sediment from waterways.*

101 Synlait support the adoption of these mitigation measures that may improve the health in the lake and lowland streams. However Synlait are concerned that there are no explicit rules or requirements sitting within a regulatory process or plan to ensure this happens.

102 No changes are recommended in the section 42A report in relation to this point.

Relief sought

103 That rules be added to give effect to these policies.

Policy 11.4.20 and Rule 11.5.34

104 Policy 11.4.20 provides:

> *11.4.20 Enable managed aquifer recharge and targeted stream augmentation to assist with improvements to lowland stream flows.*

105 Synlait supports this in part, but sought further flexibility so that managed aquifer recharge is not restricted to alpine water.

106 The section 42A report states:[16]

> *While alpine water is the most likely source for any MAR and TSA scheme (via the water race network or the Central Plans Water irrigation scheme) Policy 11.4.20 does not preclude the use of water sources from within the Selwyn Te Waihora catchment to augment lowland stream flows, for example from artesian groundwater. Rule 11.5.34 is intended to specifically provide for the take and use of surface or groundwater for augmenting stream flows, and so restrictions in region-wide rules on the non consumptive taking and use of water should not impact on the implementation of MAR and TSA within the Selwyn Te Waihora catchment.*

107 This is accepted by Synlait, who supports enabling innovation and flexibility in these areas.

Dated 1 October 2014

Ewan Chapman/Shoshona Galbreath
Solicitors for Synlait Milk Limited, Submitter

[16] Section 42A report, paragraph 13.31.