

Date: 22 October 2014
To: Alanya Limmer
From: Tim Ensor
Subject: Variation 1 - Response to Commissioners Question

1. Request

At the hearing for Variation 1 to the Canterbury Land and Water Regional Plan (LWRP), I was asked by Commissioner Rob van Voorthuysen to consider how the potential for environmental creep might be dealt with if the Canterbury Aggregate Producers Group (CAPG) were to obtain non-complying status for takes beyond the allocation limits set in the LWRP.

During the hearing I answered that setting up a policy framework that constrains the risk of environmental creep as best it can is a way of achieving this. I specifically mentioned stronger policy direction surrounding the differences between activities based on the relative costs and benefits.

Commissioner van Voorthuysen referred to examples of regional plans in the north island having strong policy direction stating that non-complying activities will generally not be granted unless specific criteria apply. He then asked if I thought there was scope within the CAPG submission for a solution of this nature and if there was scope, that I draft something along these lines.

2. Scope

The CAPG submission did not specifically request a policy constraining water allocation above set limits to specific activities or in certain circumstances. On this basis it is questionable whether there is scope to propose a new set of constraining policies to support a blanket non-complying activity rule as proposed in the submission.

However, as CAPG's submission sought non-complying status for all water abstractions in over allocated areas, it is my view that there is scope to propose a non-complying activity rule for water abstracted for gravel extraction purposes only, supported by current policy in the LWRP.

3. Proposed Amendment

To constrain the risk of environmental creep from continued allocation of water in an over allocated area, an alternative solution to a new constraining policy is a specific rule for water takes associated with gravel extraction. By only providing for new water abstraction in relation to gravel extraction activities as a non-complying activity (where new takes are otherwise prohibited), it is my view that there is very limited risk of environmental creep.

It is my view that it would be difficult for such a specific rule to occur in isolation of clear policy support. This support is found in Policy 4.93 of the LWRP which is to:

Policy 4.93

Recognise the value of gravel extraction for construction and maintenance of infrastructure, for economic activity, for flood management purposes and for the re-build of Christchurch.

As outlined in the evidence of Mr Brian Warren, water is essential to aggregate extraction and processing. Therefore in my view, in order for rules to "*recognise the value of gravel extraction*", rules in the regional plan need to recognise that water is an integral part of this activity.

On this basis, the following additional rule is proposed to provide for further allocation of water in the Selwyn Te Waihora catchment for gravel extraction purposes as a non-complying activity.

11.5.3X The taking and use of groundwater for gravel extraction purposes within the Selwyn Waihora catchment that does not meet Conditions 1, 2 or 7 of Rule 11.5.32 or the conditions of Rule 11.5.33 is a non-complying activity.

4. Conclusion

The proposed additional rule is in my view within the scope of the relief sought in the submissions of the CAPG. The rule is consistent with Policy 4.93 as it recognises the value of gravel extraction through providing a consenting option for water abstractions in over allocated areas. Importantly with reference to Commissioner van Voorthuysen's concern, the rule achieves this while ensuring that environmental creep is limited as far as is practicable.