Plan Change 7 to the Canterbury Land and Water Regional Plan

Responses to Questions of Hearing Commissioners on Council s42A Report dated 28 May 2020, and additional questions dated 16 June 2020

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Note: This series of questions and answers includes reference to an updated 'tracked changes' version of PC7 that incorporates the updates noted in these answers, and will also incorporate any further changes reflecting the "Supplementary Report" requested below. This updated tracked changes version is referred to as "Update #2". The Supplementary Report and Update #2 will be released on or before 26th June 2020. Any changes incorporated in Update #2 that arise from the answers below are set out in full in these answers.

s42A Report Page	s42A Report Para	Question
		It is understandable, given the scale and complexity of the report, that some cross references to other passages of the report (eg 'elsewhere') are general, rather than specific. If, in preparation for the hearings, you note specific page and paragraph numbers for general references, would you share them with us, please. *Response – MMC* Yes, we will provide a list of cross-references prior to the hearing.
17	3.18	**Is there a typo in the 4th line? Was it intended to read: "…perspective of legal nicety,…"?** *Response – PM/IE* Yes, the word "of" should be inserted between "perspective" and "legal".
17	3.18	**Is there any national planning standard with which PC7 or PC2 is to accord (RMA s66(1)(ea) and s67(3)(ba))?**

		Response – PM/IE The first set of national planning standards were introduced in April 2019, with some minor changes made in November 2019. The Implementation Standard (Standard 17) of the Planning Standards notes that regional councils must comply with the relevant Planning Standards through amendments to the regional plan made by 10 years from when the Planning Standards come into effect, or notification of a proposed regional plan (but not a proposed change or variation) under clause 5 of Schedule 1 after the Planning Standards come into effect. As PC7 and PC2 involve changes to existing plans, PC7 and PC2 are not required to comply with any National Planning Standard.
17	3.18	**Is there any regional policy statement or plan, whether operative or proposed, of an adjacent regional council (particularly Otago?) with which, to any significant extent, PC7 needs to be consistent (RMA s66(2)(d))?** *Response – PM/IE/MMC* Section 3 of the Canterbury Regional Policy Statement sets out how cross-boundary issues are to be managed. Canterbury Regional Council shares regional boundaries with West Coast Regional Council and Otago Regional Council. Otago Regional Council has a partially operative Regional Policy Statement 1998, and a partially operative Regional Policy Statement 2019. In addition, the Regional Plan: Water for Otago manages Otago's water resources. We note that both the Otago Regional Policy Statement and Regional Plan: Water are under review currently, and a new policy statement is expected to be notified later this year[1], and new regional plan by the end of 2023.[2] We do not consider that there is any inconsistency with these documents that needs further addressing.
17	3.18	**Is there any other regional plan for the Canterbury region which the CLWRP, as it would be changed by PC7, or the WRRP as it would be changed by PC2, must not be inconsistent (RMA s67(4)(b))?** *Response – PM/IE* Section 67(4)(b) requires that a regional plan must not be inconsistent with any other regional plan for the region. The other regional plans in the Canterbury region are the Canterbury Air Regional Plan, the Canterbury Regional Coastal Environment Plan, as well as a number of catchment plans (Hurunui Waiau River Regional Plan, Opihi River Regional Plan, Pareora Catchment Plan, Waipara

[1] See https://www.orc.govt.nz/plans-policies-reports/regional-plans-and-policies/regional-policy-statement
[2] See https://www.orc.govt.nz/plans-policies-reports/regional-plans-and-policies/water

		Catchment Plan and Waitaki Catchment Plan). It is intended that the Opihi River Regional Plan and Pareora Catchment Plan will be withdrawn when PC7 is made operative[3]. PC7 and PC2 do not make any changes to the CLWRP or WRRP that are inconsistent with any of the other regional plans. This is detailed in section 2.4.1 of the section 32 Evaluation Report for PC7 and PC2.
17	3.18	**Does either of the current plan changes give rise to a duty under RMA s67(5) to record an allocation of a natural resource?** *Response – PM/IE* PC7 gives rise to a duty under section 67(5) of the RMA to record an allocation of a natural resource, insofar as the OTOP and Waimakariri sub-regional sections introduce provisions to manage issues of water quantity.
21	3.45	**Is the word 'mas' at the end of the second line a typo, that should be read as 'was'?** *Response – PM/IE* Yes, the word "mas" should be corrected to "was".
22	3.51f	**Does the pending appeal to the High Court from the Env C's Lindis decision question the passages of that decision cited in these paragraphs?** *Response – PM/IE* These paragraphs refer to the Environment Court's findings on what is required by an efficiency analysis under section 32, and particularly the assessment of a "reasonably practicable option". The Notice of Appeal lodged by Otago Fish and Game Council does not specifically question the findings on the efficiency analysis, or assessment of "reasonably practicable option". However, one of the grounds of appeal relates to the Environment Court's interpretation and application of section 7(h) of the RMA, and references the findings in paragraphs [161]-[212]. Although the relevant part of the Environment Court decision does not appear to be directly questioned by the Notice of Appeal, the whole decision of the Environment Court is subject to the appeal. The High Court may make further

[3] Section 32 Evaluation Report for Plan Change 7 to the Canterbury Land and Water Regional Plan and Plan Change 2 to the Waimakariri River Regional Plan, Pages 26-27, Section 2.4.1, Opihi River Regional Plan and Pareora Catchment Environmental Flow and Water Allocation Regional Plan

		statements regarding the principles set out in these paragraphs, and as such there could be higher court authority on these matters in the future.
26	2.1 2.2	**Unlike NZ coastal policy statements (see RMA s58(1)(a)) national policy statements are not correspondingly approved to state national priorities (cf s62(1)). The author of Part 2 of the report says: "In the NPSFM Te Mana o te Wai is described in relation to the 'national priority'" (para 2.1); and "The NPSFM has a single national priority …" The quotation marks imply that they contain exactly the actual words used.** **Does the NPSFM 2014-2017 (gazetted 10/08/2017) contain any express statement to those effects? Please cite where?** **The Council is required to take into account Policy WM3.1 of Mahaanui IMP quoted at para 2.10, which commences "To advocate for the following order of priority …" Can that intention for advocating an order of priority establish Te Mana o te Wai as a national priority to which the CLWRP or the WRRP are obliged to give effect?** **As the hearing commissioners are to bring minds impartially open to submissions on all issues, is there justification for our accepting as a basis for our recommendations the use of the phrase 'national priority' in paras 2.1 and 2.2?** *Response – MMC* The NPS-FM does not refer to a 'national priority'. In hindsight, those were inappropriate words to use. 'Statement of national significance' would have been a better term to use. We do not consider that Policy WM3.1 of the Mahaanui Iwi Management Plan, which advocates for an order of priority, could be used to establish a 'national priority to which the CLWRP or the WRRP are obliged to give effect'. The Policy was included in the report as an indication of the priority given to Te Mana o te Wai by tangata whenua, as set out in the preceding paragraph (2.9). No, 'statement of national significance' would be a better term to use, if the Hearing Commissioners were minded to use this with respect to justifying recommendations.
30	3	**Is the author of this piece, identified in footnote 51, listed in para 1.3 or Appendix A?** *Response – JT*

		Jacqui Todd is the author of Part 2, Section 3 of the S42A report. She was omitted in error from paragraph 1.3 and Appendix A. Her experience and qualifications are set out below. Jacqui Todd I am a principal planner at Environment Canterbury. I hold a Bachelor of Science (Hons) in Zoology from the University of Otago and a Post Graduate Diploma in Resource Studies from Lincoln University. I have also completed the "Making Good Decisions" course from the Ministry for the Environment and WSP Opus Environmental Training Centre. I am a full member of the New Zealand Planning Institute. I have over twenty years' experience in resource management and planning. I have processed a broad range of regional consent applications, prepared and lodged resource consent applications and prepared and presented section 42A reports for resource consent hearings.
34	3.30	**Can you describe the "separate tool" and the "consents procedures" (last two sentences)?** *Response – JT* The separate tool is an alternative method created by Environment Canterbury to calculate Good Management Practice (GMP) loss rates when the Farm Portal is producing an erroneous result. It is called the Environment Canterbury Equivalent Pathway (ECEP) and is available online on the Farm Portal website[4]. This ECEP is identical to the Farm Portal except that it does not adjust the fertiliser inputs in the Overseer budget to align with GMP for fertiliser application. Any adjustments that need to be made to ensure that fertiliser inputs reflect GMP are made manually. The "consents procedures" are the procedures implemented by Environment Canterbury to ensure that applicants using the equivalent pathway rule framework continue to meet the GMP requirements for fertiliser use. These procedures include scrutinising fertiliser inputs and where appropriate manually adjusting application rates to meet GMP standards. Guidance about the procedures is available online at the Farm Portal website and through a Farming Land Use Consultants Working Group facilitated by Environment Canterbury.
38	4.15	**Referring to the Rūnanga submission, is it practical to define 'spring' as, for example, "a source of water from the ground that is large enough to produce**

[4] https://www.ecan.govt.nz/your-region/farmers-hub/gmp/farm-portal/

		rivulets that connect to a surface water body"? That would seem to exclude "seepages". *Response – AD* The definition suggested is consistent with the scientific definition generally applied by Environment Canterbury when mapping spring locations. This definition should be practical from a scientific standpoint but what is unclear is whether this definition would capture the 'springs' or waipuna intended to be protected for their cultural significance by the PC7 provisions. For this reason, it is considered further information particularly from Ngā Rūnanga would be beneficial to confirm if this definition is fit for purpose.
39	4.20	**Noting that the amendments to Schedule 7A only seem to apply to winter grazing, what is the basis for adopting a 5m buffer from springs? Were smaller or larger buffers evaluated for effectiveness?** *Response – MMC* The 5m buffer distance was used, so that a consistent distance (5m) would apply to all waterbodies, to enable comparatively easy implementation by plan users. The provision in Schedule 7A (showing the recommended change) reads: Vegetated buffer strips of at least 5 metres in width are maintained between areas of winter grazing and any river, lake, drain, ~~or~~ wetland or spring. Smaller or larger buffers were not evaluated.
55	9.10	**Is there any recent case law on the definition of 'river bed' in Canterbury that would assist with defining 'bank'?** *Response – PM/IE* The Court of Appeal considered the issue of defining the "bed" of a river in *Canterbury Regional Council v Dewhirst Land Company Ltd & Anor* [2019] NZCA 486. This decision largely focussed on the definition of "bed", but did contain some discussion regarding "banks" of a river. The Court considered the definition of "bed" in the RMA and found that the determination of the "bed" of a river will depend not only on the position of the banks of the river, but also on the water coverage measures as determined by the river's fullest flow which occurs within those banks.

		Accordingly, to identify the limits of the bed of a river, one must first identify the banks of the river, and then determine the area within those bank which is covered by water at the river's fullest flow (with the fullest flow being something less than the point where it floods, i.e. overtops its banks). The Court found that an important factual question in determining the bed of a river will be to first identify the banks of the river, being the land alongside or sloping down to that river by way of visual inspection or consideration of the natural character and riverine qualities of the riverbed, which will set the outer limit of its fullest flow. The Court summarised the case law on the determination of banks as: "The bank of a river is the outermost part of the bed and comprises an acclivity or elevation of land above the level of the adjacent land or water, which creates a boundary sufficient to prevent the water from flowing into the neighbouring land. The banks of some rivers may often be indistinct or indefinite and liable to constant changes, as are the waters or currents in their beds." In the High Court decision (which was upheld by the Court of Appeal), the Court considered that in relation to a braided river, the edges of the individual braids would not constitute banks but the delineated banks where defined river stones or the like slope up to land adjacent to the river margin (and possibly a river terrace or flood plain) would do so. While this decision does provide some helpful commentary that could provide a basis for a definition of "bank", given that (as the Court of Appeal anticipated) the banks of some rivers may often be indistinct or indefinite and liable to constant changes, adopting a definition of "bank" may not be practical. What constitutes the "bank" of a river is likely to require assessment in each case, and could be liable to change in the future. A definition of "bank" may also be difficult to apply to both braided and non-braided rivers, as the assessment is likely to be different in each case.
55	9.10	**In seeking a definition of 'bank', do the Water and Wildlife Habitat Trust and Forest & Bird submissions "give precise details" of the definition of that term that those submitters are requesting?** *Response – AR* Neither the WWHT submission nor the Forest & Bird submission provide recommended wording for a definition of 'bank' of a river or stream. *Response – PM/IE*

		Form 5, the prescribed form for a submission on a proposed plan change, requires that "precise details" should be provided on the decision sought from the local authority. A degree of specificity is required in a submission to ensure that all are sufficiently informed about what is proposed (*Vernon v Thames-Coromandel District Council* [2017] NZEnvC 2 at [12], citing *General Distributors Ltd v Waipa District Council* (2008) 15 ELRNZ 59 (HC) at [62]-[63]). The Environment Court in *Vernon* considered that the requirements for specificity are not merely formal or technical, but go to the heart of the scheme of the Act to ensure that others involved in the plan-making process can understand the requested decisions and be able to determine whether to support or oppose them. This should also be balanced with the need to approach relief sought in submissions in a realistic workable fashion, rather than from the perspective of legal nicety.
61	2.21	**Which Table 1b attribute addresses phytoplankton?** *Response – AR/SH* Chlorophyll a is the attribute in Table 1b which is a measure of phytoplankton (free-floating algae) biomass in a lake. The lake trophic level index (TLI) indicates the health of a lake based on its degree of nutrient enrichment. When nitrogen and phosphorus accumulate in lakes (referred to as 'nutrient enrichment') above certain concentrations, they can stimulate the growth of algae and cyanobacteria. The TLI includes measures of total nitrogen, total phosphorus, chlorophyll a (and sometimes water clarity) and therefore is partially related to phytoplankton biomass. Paragraph 2.21 incorrectly refers to "annual maximums for phytoplankton" and should be amended to state: "*… To ensure consistency between the TLI score in Table 1b and the corresponding TLI limits in Schedule 8, PC7 introduces into Table 1b the annual maximums for ~~phytoplankton~~ Chlorophyll a outlined in the NPSFM...*"
65	2.41	**Is it clear on the face of Tables 1a and 1b that the first *E.coli* column addresses an annual median?** **This same query would apply to other similar tables.** *Response – AR/SH*

		No - the first *E. coli* column in Tables 1a and 1b is not an annual median. Paragraph 2.41 incorrectly refers to "annual median" for *E. coli* and should be amended to state: *"… For completeness and consistency with the NPSFM, PC7 includes two new columns containing the relevant metrics (~~annual~~ median and 95th percentile) for E. coli from the NPSFM that are intended to apply to all rivers and lakes."* The *E. coli* median column in Tables 1a and 1b has a footnote that states *"Determined from a minimum of 60 samples collected on a monthly basis over 5 years."* The same footnote is applied to the *E. coli* median column in PC7 Tables 8a and 14(a), which set out the Freshwater Outcomes for Rivers in the Waimakariri and OTOP sub-regions respectively. This footnote has unintentionally been omitted from the *E. coli* median column in PC7 Tables 8b and 14(b), the freshwater outcomes for lakes in the Waimakariri and OTOP sub-regions, and is recommended to be added consequential to a submission from Forest & Bird (PC7-472.18). The footnotes have now been added to Tables 8b and 14(b) in Update #2. In further reviewing these Tables, in the course of answering these questions, we also recommend adding 'less than or equal to' symbols in front of the *E. coli* median and 95th percentile values in Tables 8a, 8b, 14(a) and 14(b), to line up with the recommended amendments to Tables 1a and 1b. This is a consequential amendment in response to a submission from CDHB (PC7-347.4, PC7-347.5). The symbols have now been added to Tables 8a, 8b, 14(a) and 14(b) in Update #2.
65	2.45	**Are the F&G and WWHT submissions listed in 2.45 regarding the SFRG 'on' PC7 as they seem to address provisions whose status quo is not amended?** *Response – PM/IE/AR/SH* No – the Fish & Game and WWHT submissions seeking amendments to the 'suitability for recreation grade' are not "on" PC7. This attribute is not directly comparable to the proposed *E. coli* attribute introduced by PC7 and has not been changed in PC7. The 'suitability for recreation grade' describes the overall risks associated with summertime microbial quality of a freshwater site, and is based on both faecal indicator bacterial counts and risk of faecal contamination.
66	2.50 2.51	**What methods are proposed to assist with achieving the recommended revised *E. coli* freshwater outcomes?**

		Response – AR The only method proposed in the s42A report to assist with achieving the recommended revised *E. coli* freshwater outcomes for rivers in Table 1a is a change to Schedule 7A to include springs in the practice requiring vegetated buffer strips of 5 metres. The key method proposed in PC7 to achieve the *E. coli* freshwater outcomes is the region-wide stock exclusion rule (5.71). PC7 amends Rule 5.71 to introduce new areas in the Canterbury region where the use and disturbance of the bed (including the banks) of a lake or river by any farmed cattle, deer or pigs, and any associated discharge to water, is prohibited. The new areas in Canterbury rivers comprise Schedule 6 freshwater bathing areas, Schedule 17 salmon spawning sites, and "indigenous freshwater species habitat" areas. PC7 also proposes changes to Schedule 7 to require Farm Environment Plans to describe how springs (waipuna) will be managed to avoid the direct input of microbial pathogens, and changes to Schedule 7A to require Management Plans to record the location of permanently or intermittently flowing springs.
70	2.74	**Would you briefly explain the "significant complexities and likely inaccuracies" referred to for rejecting this submission point?** *Response – AR/DG* The "significant complexities and likely inaccuracies" with recommending a measurable standardised metric for gathering of mahinga kai species is because currently no measuring, monitoring, and recording of cultural health is being undertaken at a Canterbury-wide scale. As such, we are unable to recommend a measurable metric that has been successfully implemented across the region. The issues with comparison to historic species abundance data (as suggested by WWHT) is a lack of long term monitoring data in many waterbodies with which to assess trends in order to measure the prevalence, variance and quality of freshwater mahinga kai species and their ecosystems. Furthermore, Papatipu Rūnanga have particular relationships to the resources within their takiwā, and may wish to implement a monitoring framework for tribally significant mahinga kai areas that is unique to their takiwā.
77	3.20	**If Rule 5.189 (old Rule 5.73) was to be improved how would it be worded?** *Response – AR* After reconsidering, a revised wording of Rule 5.189B, which is included in Update #2 to Appendix E Part 1, is:

		5.189B The planting of new areas of forest that is specifically planted and managed for a carbon sink, within any flow-sensitive catchment listed in Sections 6 to 15, or the planting of new areas of plantation forest that does not meet condition 1 of Rule 5.189, is a controlled activity, provided the following conditions are met: ~~1. Existing areas of exotic tall vegetation, other than plantation forest or forest that is specifically planted and managed for a carbon sink, that is greater than 2 m tall and occupies more than 80% of the canopy cover and existed at 1 November 2010, may be planted in plantation forest or forest that is specifically planted and managed for a carbon sink; and~~ 1. The new area of planting will replace, and will be entirely located within, an existing area of vegetation, where the existing vegetation: a. is exotic species, is greater than 2 m tall, occupies more than 80% of the canopy cover of the existing area, and existed at 1 November 2010; and b. is not a plantation forest or a forest that is specifically planted and managed for a carbon sink; and 2. In any flow sensitive catchment~~s~~ less than or equal to 50 km^2 in area, the ~~total area of land planted in forest~~ new area of planting, together with all other areas of planting in the same flow sensitive catchment, does not exceed 20% of the area of that ~~the~~ flow sensitive catchment ~~or sub-catchment listed in Sections 6 to 15~~; and 3. In any flow sensitive catchment greater than 50 km^2 in area, the new area of planting, together with all other new areas of planting in the same flow sensitive catchment since 1 November 2012, will not cumulatively cause more than a five percent reduction in the ~~seven day mean annual low flow~~ 7DMALF, and/or more than a 10% reduction in the mean flow. ***The CRC reserves control over the following matter:*** 1. The provision of information on the location, density and timing of planting. Red text = s42A Report Appendix E Part 1 Blue text = Update #2 The suggested amendments to the condition wording of PC7 Rule 5.189B is not intended to change the stringency of (existing) Rule 5.73 of the CLWRP. Condition 1 of Rule 5.73 originates from provisions in the Canterbury Natural Resources Regional Plan. The intent is to manage the spread of exotic pest species of woody vegetation such as gorse and broom. The replacement of pest species with forest (plantation and carbon sink) is one means for controlling their spread. Where areas of these pest species have reached the height and density criteria identified in condition 1 of Rule 5.73, they are likely to have a similar reduction effect on stream flows as a forest (plantation and carbon sink).

		In addition, I note that there is a rule reference error in the chapeau of Rule 5.189C. The correct text, which is included in Update #2, is: **5.189C The planting of new forest that is specifically planted and managed for a carbon sink, excluding a plantation forest, that does not meet one or more of the conditions of Rule ~~5.189A~~ 5.189B, within any flow-sensitive catchment listed in Sections 6 to 15 is a restricted discretionary activity.** Red text = s42A Report Appendix E Part 1 Blue text = Update #2
77	3.23	**If Rules 5.72, 5.73 and 5.74 are reinstated would that result in duplication with Rules 5.189 and 5.190?** *Response – AR* The reinstatement of Rule 5.72 would result in a duplication of permitted activity conditions 1 and 2 of PC7 Rule 5.189. These conditions refer to planting new areas and replanting harvested areas of plantation forest in a flow sensitive catchment. The reinstatement of Rule 5.73 would not result in a duplication of PC7 Rule 5.190, so long as the rule and condition references in the chapeau of Rule 5.190 are amended. Rule 5.74 relates to replanting after harvest that does not meet the conditions of Rule 5.72 (now included within condition 2(a) and (b) of Rule 5.189), or the planting of new plantation forestry that does not meet one or more of the conditions of Rule 5.73, and is a discretionary activity. Given that Rule 5.190 is also a discretionary activity, there would be limited benefit in having two discretionary rules for similar activities. The reinstatement of Rule 5.74 would result in duplication of Rule 5.190. However, the rule and condition references in the chapeau of Rule 5.190 could be amended to resolve this duplication.
77	3.23	**Do legal advisers among the reporting officers consider there is scope?** *Response – PM/IE* For an amendment to be within the scope of a submission, the amendment must be fairly and reasonably within the general scope of an original submission or the plan change as notified or somewhere in between. The question of whether an amendment has been reasonably and fairly raised in submissions will be a question of degree, approached in a realistic workable fashion rather than from the perspective of legal nicety, with consideration of the whole relief package.

		In addition, the courts have accepted that a legal interpretation that a council can only accept or reject relief sought is unreal. The real question is whether people have been denied an opportunity to effectively response to additional changes in the process. In this case, it is submitted the submission relied on to support the reinstatement of Rules 5.72-5.74 does reasonably and fairly raise this as a potential consequence. The submission states: "We do not accept that removal of sections Section 5,72 and 5 .73 and 5.74 relating to forestry should be replaced giving consent holders the freedom to use the Forestry ECOP 2007 guidelines which do not properly address the issues of sediment and erosion on highly erodable hill country soils." This demonstrates to all other submitters that the reinstatement of those rules would be a possible consequence if the council decided to accept the relief sought in that submission. On that basis, no person has been denied an opportunity to effectively respond to these additional changes. Further, while the change proposed by the section 42A officer is not a direct acceptance of the relief sought by the submitter, this is in line with the principle that it is impracticable for a council to only have the power to accept and reject relief sought. The proposed amendments sit between the general scope of the original submission and the plan change as notified, and therefore there is scope.
82	3.49	**Will the 'consequential amendments' be the subject of a separate PC, and if so, what is the timing of that?** **What was the reason for not incorporating the necessary amendments in PC7?** *Response – PM/IE/AR* No, the consequential amendments referred to would not be the subject of a separate plan change. As stated in footnote 321, section 44A of the RMA requires local authorities to amend plans to remove any conflict or duplication with an NES. The "consequential amendments" referred to would be to remove conflict or duplication with an NES. Section 44A explicitly requires that changes are made for this purpose without using the Schedule 1 process. Council intend to make consequential amendments to CLWRP rules to remove duplication or conflict with the National Environmental Standard for Plantation Forestry (**NESPF**) once the duplication or

		conflict arises as a result of the changes proposed to the CLWRP through PC7. The timing for these consequential changes will likely be once the provisions in PC7 are made operative. The reason the necessary amendments have not been included in PC7 is that the conflict between the NES and PC7 has not yet arisen. This conflict will not arise (and therefore require amendments to the CLWRP) until PC7 becomes operative, given that the wording of the provisions may change before they become operative. This is due to the differences in definitions of "plantation forest" used in both the CLWRP and the NESPF. PC7 proposes to replace the current CLWRP definition of "plantation forest" with the definition in the NESPF. Currently, there is only partial conflict in the CLWRP regarding plantation forestry, due to the differences in definitions of "plantation forest" used in both the CLWRP and the NESPF. For example, the CLWRP definition applies to plantation forestry of all sizes, not just those greater than 1ha as per the definition in the NESPF, and the CLWRP definition applies to trees "specifically planted and managed for a carbon sink", whereas the NESPF only applies to plantation forestry "deliberately established for commercial purposes". Any conflict or duplication of the CLWRP rules with a provision in the NESPF will only occur where there is currently an overlap in the activities covered by the two definitions. Any activities that are captured by the CLWRP definition of "plantation forest" but not the NESPF definition of "plantation forest" fall outside the scope of the changes contemplated by section 44A of the RMA, and are not considered to be duplication or conflict that must be removed without a plan change. In other words, if the outcome of the PC7 process changes the CLWRP definition of "plantation forest" to that of the NESPF, the consequential rule amendments will not be the subject of a separate plan change.
86	4.20	**LWRP section 1.3.1 describes 'wāhi tapu' and 'wāhi taonga' and gives examples of wāhi taonga. Could the amended wording inserted by PC7 (eg see Rule 5.164(2)) read "… as identified or described in this Plan …"?** **Could the descriptions of 'wāhi tapu' and 'wāhi taonga' be amended to list specific elements of the LWRP, such as Schedule 17 Salmon Spawning sites, Schedule 21 Nohoanga sites, mapped Critical Habitat of Threatened Indigenous Freshwater Species, inanga spawning habitat, springs, rock art management areas, etc?** **Could these 'descriptions' be recast as definitions?** *Response – AR*

		Yes, it would be helpful to make reference to existing descriptions in the CLWRP of Ngāi Tahu values and sites of significance in the new matters of discretion. In addition to the descriptions in Section 1.3.1, descriptions of cultural values are also provided in the sub-region sections and Schedules of the CLWRP. The suggested wording applies to all 23 rules - Rules 5.9, 5.11, 5.13, 5.15, 5.17, 5.19, 5.26, 5.28, 5.36, 5.40, 5.110, 5.115, 5.117, 5.120, 5.123, 5.126, 5.128, 5.133, 5.161, 5.164, 5.176, 5.178, 5.180, and is included in Update #2 as follows: Any adverse effects on Ngāi Tahu values or on sites of significance to Ngāi Tahu, including wāhi tapu and wāhi taonga, as identified or described in this Plan, in any relevant District Plan or in any Iwi Management Plan Red text = s42A Report Appendix E Part 1 Blue text = Update #2 The expansion of the descriptions of 'wāhi tapu' and 'wāhi taonga' in CLWRP Section 1.3.1 would be helpful to plan users seeking guidance on Ngāi Tahu values and sites of significance when considering plan provisions. It would be particularly useful to consider the inclusion of any Ngāi Tahu values and sites of significance that are mapped in the CLWRP Planning Maps, such as the Rock Art Management Areas and inanga spawning habitats. However, we would not wish to suggest amendments to these descriptions without consulting with Ngāi Tahu. With regards to the identification, protection and management of wāhi tapu and wāhi taonga, the Mahaanui Iwi Management Plan states that "*Papatipu Rūnanga may have different ways of defining, identifying and classifying significant sites in their takiwā…The management and the protection of wāhi tapu and wāhi taonga in specific areas must therefore be based on engagement with Papatipu Rūnanga*." I have reservations about recasting the terms 'wāhi tapu' and 'wāhi taonga' as definitions in Section 2.9 of the CLWRP. The Canterbury Regional Policy Statement already has concise definitions of these terms in the "Glossary of Māori Words – Papakupu" and describes 'wāhi tapu' and 'taonga' in Section 2.2: Ngāi Tahu and the Management of Natural Resources.
87	4.22	**As Policy 4.14B is located under the heading ''Discharges of contaminants to land or water', are there any implications of amending the phrase in the policy from 'applications for discharges' to 'applications for resource consent'?** *Response – AR* If the phrase in Policy 4.14B is amended it would then be applicable to all activities. As Policy 4.14B sits with the "Discharges of contaminants to land or

		water" policies, it is reasonably anticipated that this policy only applies to discharge activities, and persons applying for resource consent for other activities would not necessarily refer to the discharges policies.
87	4.22	**Do legal advisers among the reporting officers consider there is scope?** *Response – PM/IE* No, we do not consider that there is scope to make the recommended change. The section 42A officer has recommended amendments to Policy 4.14B in order to improve clarity for plan users and assist with the interpretation of the newly added matters of discretion to a number of rules. While recognising that Policy 4.14B was not amended by PC7, the recommended amendment was justified on the basis that it was a consequence of the submissions seeking greater clarity about how Ngāi Tahu values and sites of significance are to be assessed (in reliance on Timaru District Council's submission). That submission noted, "Consequential amendments to other policies and/or rules through the plan may be required for consistency of approach when referring to Ngāi Tahu values or sites of significance to Ngāi Tahu". Policy 4.14B sits with the discharge policies. It is reasonably anticipated that this policy would only apply to discharges, and persons applying for resource consent for other activities would not necessarily refer to the discharges policies. It is not reasonably and fairly raised in Timaru District Council's submission that a policy expressed as being applicable to discharges would be amended to then be applicable to all activities. It is also reasonable to expect that other persons would want to submit on changes to Policy 4.14B where that policy would need to be considered for all resource consent applications. For completeness, we note that recent Environment Court decisions have cast doubt on the ability to make consequential changes that flow "upwards" as a result of accepting a submission point (i.e. making changes to policies as a result of amending the activity status of a rule), and there is now conflicting authority on whether this is acceptable. In *Church of Jesus Christ of Latter Day Saints Trust Board v Hamilton City Council* [2015] NZEnvC 166 the Court considered the classification rankings of heritage buildings, and in particular a disconnect between a policy and the activity status for demolishing B ranked buildings and structures. The Court concluded, "It is fair and reasonable that as part of the relief sought in relation to the ranking system that the accompanying policies would be amended. The ranking system, the relative activity status of demolition and the policies in support are all interconnected. They do not operate in a vacuum. It is unlikely that an amendment would be made to one without parallel changes being made to the other." The High Court in *Albany North Landowners v Auckland Council* [2016] NZHC 138 appeared to support that

		approach, noting in relation to consequential changes, "Changes to support vertical/horizontal integration and alignment, to give effect to policy change, to fill the absence of policy direction, and to achieve consistency of restrictions or assessments and the removal of duplicate controls;" However, in *Arthurs Point Outstanding Natural Landscape Society Inc v Queenstown Lakes District Council* [2019] NZEnvC 150, the Environment Court stated, "While I accept that consequential relief may be granted as a matter of law, subject to considerations of fairness (for which section 293 may be a remedy) and the application of *Motor Machinists*, I consider that *Albany North* did not introduce a principle that submissions on lower order provisions in a plan (change) can drive 'consequential' changes further up the hierarchy of provisions in the same document, precisely because they are not usually (in my view) 'reasonably foreseeable'."
86f; 580-588	4.14-4.26; 9.11-9.59	**Do NPSFM 2014-2017 provisions on Te Mana o te Wai and in Appendix 1 have any bearing on the topics addressed in these passages? If attention is given to the obligation of the CLWRP to give effect to those provisions of the NPSFM, would this change the analysis and recommendations given here?** *Response – MMC/PM/IE* Yes, the NPSFM 2014-2017 provisions on Te Mana o te Wai and in Appendix 1 do have a bearing on these topics, depending on the subject matter. We note that the NPSFM relates to freshwater, and that the issues addressed in the relevant paragraphs include such things as rock art, so would appear to be only obliquely related to fresh water (for example, rock art is not a freshwater resource, but we acknowledge that the presence of or degradation of rock art could affect the mauri of nearby waterbodies). While Te Mana o Te Wai is not specifically referred to in those paragraphs, even after specifically considering Te Mana o te Wai, we maintain our existing recommendations. However, there may be an exception to this, in relation to further protection of Mataitai Reserves. As noted at para 4.66 on Page 260 on relation to the OTOP provisions, further advice from submitters, in addition to the clarification of scope, could assist with arriving at a firm conclusion.
93	5.29	**Would a stream reach be removed without ensuring it is permanently dry?** **Would absence of evidence of species or habitat on a particular day be a reliable basis for finding it does not qualify?** *Response – AR/DG*

		The proposed amendments to the critical habitat layer involved the removal of stream reaches when no stream was present based on recent high resolution aerial photos. Rather than a stream being discounted on the basis of being dry in any given aerial photograph, stream reaches were removed if there was no evidence of a stream channel at all. This situation may arise when a stream has been diverted or piped subsequent to a threatened species being found. No, the absence of a species on a particular day would not disqualify a habitat from being a PC7 "Indigenous Freshwater Species Habitat".
94	5.34	**The metadata 'could be' or 'will be' added to the PC7 habitat layer?** *Response – AR/DG* The species metadata <u>will be</u> added to the PC7 habitat layer in Canterbury Maps once PC7 is made operative.
95	5.42	**Are parts of lake beds where kakahi are found variable from time to time?** *Response – DG* There has been limited research on the behaviour and distribution of kakahi in lakes. However, they have been observed over a range of depths and within a variety of habitats; macrophyte beds, silt and sand deposits and amongst larger inorganic substrates. Juvenile mussels have been observed to congregate in different areas to adults, being found around the mouths of rivers in some lakes. Individual mussels may also move considerable distances overnight and so are relatively mobile within their preferred habitat types. Finally, the parasitic life stage of the juvenile mussel attaches to fish that may transport the mussel over large distances before release. As such, while mussels are not known to show distinct migrations, they are certainly mobile within a lake system.
96f	5.47-5.50	**Do the submissions requesting inclusions of additional species whose habitats are to be identified "give precise details" of the map amendments that would be needed to give effect to those additions?** *Response – AR/DG/PM/IE* Details such as maps were not provided in those submissions. However, the distributions of the additional indigenous fish species requested is likely to be available in the New Zealand Freshwater Fish database. The submissions requesting additional inclusions of species are as follows. Ngā Rūnanga's submission notes that "Consideration should be given to the inclusion of tuna, pātiki/flounder and tuaki/cockles, their key habitat areas and

		whether these can be captured by extension of, or incorporation of, additional areas on the maps. The increased protection of these habitats should not be excluded on the basis that they are extensive areas as there are significant risks posed to these species from habitat loss as a result of land and water use activities." Ngāi Tūāhuriri's submission seeks that long-finned eel, short-finned eel and flounder are added to the definition of Indigenous Freshwater Species Habitat. The submission notes "consequential amendments to the planning maps are required to the habitats to be protected." The Christchurch City Council's submission supported the definition of indigenous freshwater species habitat, but noted that further areas may need to be included. The relief sought is noted as "Include areas where community composition has relatively high proportion of indigenous 'at risk' species e.g. longfin eels, inanga." A Brown's submission seeks that the habitats of indigenous plant, freshwater and reptile species in and by the Orari River are mapped to provide a measure for river ecology stability. The Orari River Protection Group submission seeks to include the blue gilled bully, Canterbury galaxid, Tuna and upland bullies, and considered that the Orari River should also be included in the mapping of the habitats of these fish. G Fenwick seeks a broadened definition of Indigenous Freshwater Species Habitat to include "taonga species (described and undescribed) of plants, vertebrates and invertebrates that are endemic to the region, and species with regional populations that are nationally significant". The submission does not list specific species that are sought to be included. On this basis, it also seems as though the submitter did not consider that mapping would be required to achieve the proposed amendments, as no changes to the maps are proposed. A degree of specificity is required in a submission to ensure that all are sufficiently informed about what is proposed (*Vernon v Thames-Coromandel District Council* [2017] NZEnvC 2 at [12], citing *General Distributors Ltd v Waipa District Council* (2008) 15 ELRNZ 59 (HC) at [62]-[63]). The Environment Court in *Vernon* considered that the requirements for specificity are not merely formal or technical, but go to the heart of the scheme of the Act to ensure that others involved in the plan-making process can understand the requested decisions and be able to determine whether to support or oppose them. This should also be balanced with the need to approach relief sought in submissions in a realistic workable fashion, rather than from the perspective of legal nicety.

103	5.83	**"… more weight may have been given to CLWRP Objective 3.8A and clause 3 of CRPS Objective 7.2.1 … than was appropriate … instead of considering and balancing all objectives together." Does PC7 provide a permissible and suitable opportunity to review the appropriateness of the objectives in the CRPS cited here?** **Respecting the reporting officer's qualifications and experience as a freshwater ecology scientist, does his opinion on the relative weight given to the objectives derive from giving effect to RMA Part 2, the NPSFM, the CRPS, and the submissions and evidence given in completing the CLWRP?** *Response – AR* I acknowledge that Paragraph 5.83 is poorly worded. In the analysis of clause (b) of Policy 4.61A, it was not intended to imply that the listed objectives in the CLWRP and CRPS are, or should, be reviewed for their appropriateness to achieve a particular outcome. There is a separate process for that under the RMA. I would like to clarify that Paragraph 5.83 was written by Council Planner Andrea Richardson, and not Council Scientist Duncan Gray.
104	5.83 5.92	**What are the implications of deleting clauses (a) and (b) of Policy 4.101 (noting that clauses (a) and (b) state exceptions to the general policy direction requiring effects to be avoided)?** **Would a decision maker be expected to refuse all applications where effects cannot be avoided, even in circumstances where there is an overall net gain in outcomes through offsetting?** *Response – AR/PM/IE* The deletion of clauses (a) and (b) of Policy 4.101 would imply a decision maker is expected to refuse all applications where adverse effects on a mapped habitat cannot be avoided. I note the Supreme Court's comments in *Environmental Defence Society Inc v New Zealand King Salmon Company Ltd* [2014] NZSC 38 that "avoid" in the context of the NZCPS has its ordinary meaning of "not allow", or "prevent the occurrence of". As currently drafted, Policy 4.101 does not make provision for offsetting. Avoid should have its usual meaning in this context, which effectively means that adverse effects on a mapped habitat should not be allowed, and should be prevented. In some circumstances, this may require the consent application being declined.

104	5.93	**How practical is it to attribute, with any degree of certainty, damage or loss of CHTIFS to the diffuse discharge of nutrients?** **Is Policy 4.101 amended in Appendix E Part 1 as recommended here?** *Response – AR* Upon reflection, it is not practical to attribute habitat damage or loss to the diffuse discharge of nutrients. Accordingly, the recommendation in Paragraph 5.93 of the s42A report is not appropriate and should be deleted. No - Policy 4.101 was unintentionally not amended in Appendix E Part 1 to reflect this s42A recommendation. This means an update to this Policy to delete reference to the discharge of nutrients is not required.
105 106		**Are the Forest and Bird submissions listed in 5.101 and the five submitters referred to in 5.105 'on' PC7 as they seem to address provisions whose status quo is not amended?** *Response – PM/IE* While parts of Rule 5.71 are proposed to be altered by PC7, the parts of the provision sought to be amended by these submissions are not being altered by PC7. Where amendments are sought to parts of provisions that PC7 is not seeking to amend, this relief does not represent a change to the status quo advanced by the proposed plan change. There also remains a real risk that others would not have submitted on those requested changes, as changes to those parts of the provision were not signalled in the notified version of PC7. For these reasons, the changes sought by Forest and Bird and the five submitters in 5.105 are not "on" PC7. For completeness, we note that the remaining submitters referred to, but not referenced in the report, are Kaiapoi-Tuahiwi Community Board (PC7-42.12), Rangiora-Ashley Community Board (PC7-149.12) and Woodend-Sefton Community Board (PC7-107.120).
107	5.113	**Where in Appendix E Part 1 is this recommendation shown?** **Is a complementary change required to Policy 4.31 to reinstate the operative wording?** *Response – AR*

		The recommended change to condition 2 of Rule 5.71 to reinstate the operative wording was unintentionally omitted from Appendix E Part 1. It is now included in Update #2, and as follows: 2. Within ~~a the~~ a Community Drinking-water Protection Zone ~~of a surface water intake~~ as set out in Schedule 1; or Blue text = Update #2 Yes - a complementary change is required to clause b of Policy 4.31 to delete the proposed wording "… for surface water takes …" This amendment is included in Update #2 to Appendix E Part 1, and as follows: b. excluding stock from within freshwater bathing sites listed in Schedule 6, salmon spawning sites listed in Schedule 17, Community Drinking-water Protection Zones ~~for surface water takes~~ for surface water takes as set out in Schedule 1, other sensitive water body areas; and the water body bed and banks closely adjacent to and upstream of these areas; and Blue text = Update #2
112	5.141	**Given the emphasis in *Lindis Catchment Group Incorporated vs Otago Regional Council* [2019] NZEnvC 166 on the adverse effects resulting from the predation of indigenous freshwater species by trout (see in particular paragraphs [172], [185] and [207]), and the fact that the NPSFM does not safeguard introduced fish species, is it appropriate to delete Policy 4.102 or could it instead be amended to, for example, preclude the passage of introduced fish species that could result in the predation of say the 11 freshwater species listed in the recommended definition of "Critical Habitat of Threatened Indigenous Freshwater Species", with a focus on new structures or replacement consents for existing structures?** **If so, would it be appropriate to consequentially amend Rules 5.137(9), 5.138(4), 5.140A(1), 5.140(3) and 5.151(3) to cross-refer to Policy 4.102?** **Should Rules 5.140(3) and 5.151(3) refer to "existing fish passage" so as to be consistent with Rules 5.137(9), 5.138(4) and 5.140A(1)?** **Are those passages of the Env C decision among the alleged errors of law the subject of the pending appeal to the High Court?** *Response –* A response to this question is still being developed, and will be provided, alongside the Supplementary Report, on or before 26th June 2020.

116	5.166	**Could there be a footnote added to references to "visual clarity standards" in the rules to make it clear that use of a SHMAK clarity tube is suitable?** **How is the s42A author's recommendation in the last sentence of paragraph 5.166 given effect to in the amended rules?** *Response – AR/DG* We do not consider that a footnote that refers to a Stream Health Monitoring and Assessment Kit (SHMAK) clarity tubes is appropriate, as it is not a suitable visual clarity method in all circumstances such as in high clarity waters. If it was considered necessary, an advice note could be added, stating that the National Environmental Monitoring Standard (NEMS) for Discrete Water Quality – Part 2 of 4: Sampling, Measuring, Processing and Archiving of Discrete River Water Quality Data, includes three visual clarity methods - Black Disk Measurement, Clarity Tube Measurement and Beam Transmissometry Measurement. Visual clarity should be measured by an appropriately qualified and experienced person using one of these visual clarity methods. The recommendation in the last sentence of paragraph 5.166 could have been written more clearly - it relates to discharges that originate outside a riverbed. As Rules 5.141 and 5.152 control discharges generated within a riverbed, this recommendation is not relevant. [Note: While the question refers to the last sentence of paragraph 5.166, paragraph 5.165 appears to be the paragraph in question. The question has been answered on that basis.]
117	5.172	**Is the DOC submission on Policy 4.47(a) 'on' PC7 as it seems to address provisions whose status quo is not amended?** *Response – PM/IE* No, the DOC submission on Policy 4.47(a) is not 'on' PC7. PC7 proposes to introduce a qualification to Policy 4.47(b) to ensure that potential adverse effects of small scale diversions of water for the purpose of removing gravel or other earthworks are minimised. PC7 also proposes a change to Policy 4.47(c) for consistency of wording between clauses (b) and (c) of that Policy. DOC's submission supports the amendment to Policy 4.47(b), but also proposes that a similar qualification is included in relation to (a), which relates to

		diversions for establishing, maintaining or repairing infrastructure. While parts of Policy 4.47 are proposed to be changed by PC7, the part governing diversions as part of establishing, maintaining or repairing infrastructure was not proposed to be changed.
118	5.174	**Is the Forest and Bird submission on Policy 4.47(c) 'on' PC7 as it seems to address provisions whose status quo is not amended?** *Response – PM/IE* The amendments sought by Forest and Bird to clause (c) of Policy 4.47 are "on" PC7. The amendments sought are in line with Forest and Bird's requested relief on clause (b), in order to ensure that the wording was consistent between clauses. The changes sought to Policy 4.47(c) are consequential to the relief sought by Forest & Bird in relation to clause (b). Amendments to Policy 4.47 were reasonably and fairly raised, and clause (c) was amended in the notified version of PC7 (albeit in a small manner).
118	5.179	**Synonyms for minimal include "lowest", "smallest" and "least possible". Is that appropriate terminology for a regional plan or would it be preferable to amend the clause to use established RMA terminology such as, for example, "no more than minor" in Policy 4.47(b)?** **If so, would it be appropriate to consequentially amend clause Policy 4.47(c) or other similarly worded policies?** *Response – PM/IE* The phrase "more than minimal" is used in a number of other policies in the CLWRP. In particular, it is used in Policy 4.44 of the CLWRP, which also relates to the damming and diversion of water bodies, but is not amended by PC7. The phrase "more than minimal" was used in relation to Policy 4.47(b) to ensure internal consistency within Policy 4.47, given that clause (c) of that policy uses the phrase "more than minimal", but also to ensure consistency with Policy 4.44. Accepting that synonyms for minimal include "lowest", "smallest" and "least possible", there is a difference between providing that "there are no potential adverse effects that are more than minimal" and providing "there are no more than minor adverse effects". The phrase "no more than minor" still provides for effects that are minor, whereas providing that "there are no potential adverse effects that are more than minimal" does not. Given this, it is not preferable to amend clause (b) of Policy 4.47 to use the phrase "no more than minor" and nor is it appropriate to make a consequential amendment to clause (c) of that policy.

123	5.213	**Are these three submissions on the activity status of Rule 5.141A 'on'PC7 as they seem to address provisions whose status quo is not amended?** *Response – PM/IE* Yes, the three submissions on the activity status of Rule 5.141A are 'on' PC7. Greenstreet Irrigation Society, Ashburton River Irrigators Association and Federated Farmers seek that the activity status of Rule 5.141A is changed from discretionary to restricted discretionary, and new matters of discretion are introduced into the rule to cover the conditions of Rule 5.135 to 5.141. Rule 5.141A is proposed to be amended by PC7, to include "any diversion or discharge in an artificial watercourse" as also falling within the scope of the rule. Although the activity status of the rule was not proposed to change, as notified Rule 5.141A seeks to include an entirely new activity as falling within the ambit of the rule where it previously did not. On that basis, it is reasonable to anticipate that persons wishing to divert or discharge in an artificial watercourse would seek changes to Rule 5.141A. There is little risk that persons potentially affected by the changes sought have been denied an effective opportunity to participate in the process. It is reasonable to anticipate that further changes may have been requested to Rule 5.141A as a result of including a new activity, and therefore the public was on notice that changes to Rule 5.141A were possible.
123	5.209	**What are the implications of replacing the phrase 'significant habitat of indigenous flora and fauna' with 'critical habitats of threatened indigenous species?** **Would that imply a consideration of effects on a more limited range of habitats?** *Response – AR* Yes, amending the phrase in the matters of Rules 5.115 and 5.120 to "Critical Habitat of Threatened Indigenous Freshwater Species" would narrow the range of habitats of indigenous fauna to those 11 aquatic species listed in the definition of this term. The phrase would exclude Inanga Spawning Habitat (mapped on the CLWRP Planning Maps), significant habitats of indigenous terrestrial fauna, and significant habitats of indigenous flora. However, more certainty would be provided of the location of the habitats required to be considered by way of the proposed "Critical Habitat of Threatened Indigenous Freshwater Species" layer on the Planning Maps.

124	5.216	**Is the FF submission on the activity status of Rule 5.152A 'on'PC7 as it seems to address provisions whose status quo is not amended?** *Response – PM/IE* Yes, Rule 5.152A is introduced by PC7 and therefore Federated Farmers' submission is 'on' PC7. All aspects of Rule 5.152A are available to be submitted on, as any amendments to Rule 5.125A would be between the status quo and the plan change as notified. There is no risk of prejudice, as being a new rule, it is clear to the public that there could be any number of changes to this notified rule (ranging from simple amendments to the entire deletion).
128 130	6.12 6.29	**Policy 13.4.24 does not mention a 36 month period?** *Response – AR* No - Policy 13.4.24 does refer to a "transition period", but does not quantify the length of that period. Paragraphs 6.12 and 6.29 of the s42A report incorrectly state that Policy 13.4.24 provides a 36 month period. Paragraph 6.12 should be corrected as follows: "In response to this first issue, PC7 introduces a new policy (Policy 13.4.24) that requires recognition of the difficulties in obtaining reliable deep groundwater in the Hinds Coastal Strip Zone and provides for a partial substitution of surface water or stream depleting groundwater takes, and a transition period ~~of 36 months~~ to establish the reliability of the deep groundwater take." Paragraph 6.29 should be corrected as follows: "Clause (b) of Policy 13.4.24 provides a period of time ~~(36 months)~~ for consent holders to allow for full development of a deep bore in the Hinds Coastal Strip Zone…"
133	6.44	**Why then does Rule 13.5.30 condition 6 refer to a 36 month period?** *Response – AR* The 36 month transition period recommended in condition 6 of Rule 13.5.30 comes from the Hinds Drains Working Party Recommendations for existing water permit holders wanting to access deep groundwater in the 'Hinds Coastal Strip Zone'. Recommendation 4.6 of that document states *"…a transition period of three years to enable the groundwater supply to be developed into a reliable source (over three years) before shallow water takes are surrendered*." To

		provide more certainty of the duration, the PC7 provisions recommend a period of 36 months rather than 3 years.
133	6.45	**Regarding the recommended amendments to condition 6 of Rule 13.5.30: At what point would the yield from a bore be considered 'to meet the threshold of 'unreliable'?** **Where in the CLWRP is there guidance on this matter?** *Response – AR* In hindsight, I consider that the phrase in condition 6 of Rule 13.5.30: '*the yield of the new bore is unreliable*' is too uncertain. The Hinds Drains Working Party Recommendation 4.6 addresses access to deep groundwater in the 'Hinds Coastal Strip Zone' and states "*Drilling for water has proven problematic due to the amount of sand found at deep levels, and in the instances where water has been located sand has severely restricted yields and in many cases led to pump failure*." I am unable to find a description of what they consider to be the threshold of an 'unreliable' groundwater take in this document. The PDP report "Technical Work for the Hinds/Hekeao Plains Area" does not provide guidance on a threshold, but does advise that higher yields may be achieved in bores upstream and inland from the coastal strip area on account of different aquifer parameters. In particular, a higher value of transmissivity is expected beyond the coastal strip area. "Reliability of supply" is defined in Section 2.9 of the CLWRP as "*means, in relation to irrigation, the ability of the water supply to meet demand from one or more abstractors, when operating within the flow and allocation regime or the allocation limits*." In terms of what that water supply demand may be, the CLWRP provides relevant guidance in the definition of "reasonable use test" and Schedule 10: Reasonable Use Test. Policies 4.65 to 4.69 are relevant to the efficient use of water. Furthermore, Policy 13.4.20 of the CLWRP states: "*Improve flows in spring-fed waterbodies and the Lower Hinds River/Hekeao to meet economic, cultural, social and environmental outcomes in the Hinds/Hekeao Plains Area by requiring adherence to flow and allocation limits, limiting the volume and rate of abstraction on replacement water permits to reasonable use calculated in accordance with Schedule 10 and restricting increased use arising from the transfer of consented volumes of water within surface water catchments and the Valetta Groundwater Allocation Zone*."

		Based on this CLWRP guidance, I consider that the threshold for "the yield of the new bore is unreliable" is when the new groundwater take cannot provide the rate and volume of abstraction in accordance with the reasonable use test calculated in accordance with CLWRP Schedule 10. To provide more certainty of the requirements of condition 6 of Rule 13.5.30, I recommend that it is amended, as shown in Update #2 as follows: 6. Where the proposed point of take is within the Hinds Coastal Strip Zone and a portion of the existing surface water or groundwater take will be retained, and it is demonstrated, at the time of application for resource consent, that the yield of the new bore ~~is unreliable~~ will not achieve the annual volume required for reasonable use determined in accordance with Schedule 10, then within 36 months of commencement of the proposed take: … Blue text = Update #2
133	6.44	**If the hearing commissioners do adopt the officer's reservation about the 36-month transition period, what amendments to Rule 13.5.30 Condition 6 and Criterion 6 would then be appropriate?** *Response – AR* If a 36 month transition period is not provided for, I recommend that Rule 13.5.30 Condition 6 and Criterion 6 are deleted. In addition, I would also recommend the deletion of Policy 13.4.24.
136	6.63	**Is Policy 14.4.11(b) an unnecessary duplication of the requirements of 14.4.11(a) as it now recommended to be worded?** *Response – AR* Yes – Clause (b) of Policy 13.4.11 is recommended to be deleted. It is included in Update #2, and as follows: Reduce discharges of microbial contaminants, phosphorus and sediments in the Hinds/Hekeao Plains Area by: a. implementing the region-wide stock exclusion rules, including for any Main and Secondary Hinds Drain irrespective of whether water is present in the drain; and ~~b. excluding cattle, pigs and deer from drains, including any Main and Secondary Hinds Drain irrespective of whether water is present in the drain; and~~

		c. … Red text = s42A Report Appendix E Part 1 Blue text = Update #2 [Note: While the question refers to Policy 14.4.11, Policy 13.4.11 appears to be the policy in question. The question has been answered on that basis.]
143	7.22	**Is the intent of the recommended amendment to the chapeau of Rule 5.191 to enable applications to change existing water take permits to have their specified 'use' (for example 'irrigation') amended to include MAR?** **Under s127(3) RMA would such applications automatically be discretionary activities?** **Putting to one side the s127 issue, would it be clearer if the recommended additional words for the chapeau of Rule 5.191 read "… recharge, or changing the specified use on an existing consented surface water take to include managed aquifer recharge, and the associated …"?** *Response – AR/PM/IE* Yes – the intent of the wording "…*or the use of surface water associated with a lawfully established surface water take*…" is to enable existing water take permits to change their specified 'use' to include managed aquifer recharge (MAR). The greatest barrier of the current region-wide provisions is the ability to take water to develop a MAR scheme, particularly where surface water is over-allocated. Without specific provisions to provide for MAR schemes, source water would need to be obtained under existing consents or via transfers of water permits which are subject to the surrender of a portion of the transferred water in over-allocated catchments. Using existing consents, whether or not they are transferred, is also likely to require amendments to consent conditions under s127 of the RMA. This is because the water permit for the use of water specifies what abstracted water can be used for, which is very unlikely to include MAR. Yes, if a change of conditions is required it is processed as if the application were an application for a resource consent for a discretionary activity (as required by section 127(3)). The High Court in *Body Corporate 97010 v Auckland City Council* (2000) 6 ELRNZ 183 (also upheld on this point in the Court of Appeal in *Body Corporate 97010 v Auckland City Council* (2000) 6 ELRNZ 303) confirmed that it is dependent on the circumstances of each case whether a change of conditions would fall within the scope of an existing consent, or requires a whole new application. The High Court (and Court of Appeal) noted that this is a question of fact and degree to be determined in the circumstances of each case. The Court noted that a comparison of the adverse effects is useful, and "where the

		variation would result in a fundamentally different activity or one having materially different adverse effects, a consent authority may decide the better course is to treat the application as a new application." Whether a change of conditions of a particular resource consent will be required to include MAR is dependent in each case on those conditions. The Council may decide that an amendment to the 'use' of water does not fall within the scope of the existing consent, and therefore not considered under s127. In these circumstances, a new use permit could be granted under rule 5.191 to allow a use for MAR to sit alongside an existing take. In this case, a change in conditions would not be required, and an applicant could rely on the restricted discretionary rule to apply for a new use (to use in conjunction with their existing take). With regard to the suggested additional words for the chapeau of Rule 5.191, we have concerns with referring to "changing" as this would imply a s127 application to change the conditions. Rather, a new consent application would likely be required for the use of water for MAR but would depend on the wording of the existing consent. We would prefer the rule to provide for the use of water for MAR without specifying whether it should be treated as a new consent or a change of conditions. On this basis we do not recommend any changes to the wording of the chapeau.
143	7.31	**In the last sentence of 7.31, the reporting officer concludes that as the reduction policy is addressed by an existing policy, it need not be added to Policy 4.100(b). However, given that Rule 5.191 would classify taking for MAR as a restricted discretionary activity, to applications for which RMA s104C(1) would apply, would a consent authority be able to consider the existing policy if not listed in Rule 5.191?** *Response – AR* Section 104C(1)(b) of the RMA states that when considering an application for a resource consent for a restricted discretionary activity, a consent authority may consider only those matters over which it has restricted the exercise of its discretion in its plan or proposed plan. Matter 16 of Rule 5.191 allows for consideration of any reduction in the rate of take and volume limits. However, we acknowledge that this does not extend to policy guidance on whether replacement water takes have reductions to phase out over-allocation, and if so, how much. Given that policy guidance is not provided in the MAR-specific Policies 4.99 and 4.100, Matter 16 could reference Policy 4.50 (abstraction of water). Accordingly, we suggest that matter of discretion 16 in Rule 5.191 is amended. This is shown in Update #2, and as follows:

		16. Where the proposed take is the replacement of a lawfully established take and is from an over-allocated surface water catchment, the reduction in the rate of take and volume limits to enable reduction of the over-allocation and the consistency of the proposal with Policy 4.50. Red text = s42A Report Appendix E Part 1 Blue text = Update #2
144	7.37	**Changes are recommended to the chapeau of Rule 5.191. Should similar consequential changes also be made to Rules 5.192 and 5.193?** *Response – AR* Yes – similar consequential changes should also be made to Rules 5.192 and 5.193. These are included in Update #2, and as follows: **5.192 The take and use of surface water for managed aquifer recharge or the use of surface water associated with a lawfully established surface water take, and the associated ~~use and~~ discharge of that water and entrained contaminants into water or into or onto land, the use of land for the excavation and deposition of material to construct the managed aquifer recharge system, and the discharge of construction-phase stormwater into or onto land where it may enter water, that does not meet one or more of the conditions of Rule 5.191, excluding conditions 1 or 2, is a non-complying activity.** **5.193 The take and use of surface water for managed aquifer recharge or the use of surface water associated with a lawfully established surface water take, and the associated ~~use and~~ discharge of that water and entrained contaminants into water or into or onto land, the use of land for the excavation and deposition of material to construct the managed aquifer recharge system, and the discharge of construction-phase stormwater into or onto land where it may enter water, that does not meet conditions 1 or 2 of Rule 5.191 is a prohibited activity.** Blue text = Update #2
145	7.43, 7.44, 7.45	**In considering an application for a restricted discretionary activity consent for MAR under Rule 5.191, would a consent authority be permitted by RMA s104C(1) to consider Policy 4.99?** *Response – AR/PM/IE*

		Yes, a consent authority would be permitted to consider Policy 4.99, under section 104C(1), insofar as Policy 4.99 addresses matters over which the Council has restricted its discretion. Section 104C(1) provides that when considering an application for a resource consent for a restricted discretionary activity, a consent authority must consider only those matters over which discretion is restricted. As confirmed in *Wellington Fish and Game Council v Manawatu-Wanganui Regional Council* [2017] NZEnvC 37, this limitation also applies to objectives and policies such that they can only be considered to the extent they are relevant to the matters subject to discretion. As described in Section 2.2 of the CLWRP, 'outcome-based' policies such as Policy 4.99 guide decision-making on resource consent applications as well as providing the rationale for the rules, and the status which is given to activities in the rules. Further, the matters of discretion for Rule 5.191 are broad, and sufficiently wide-ranging to allow consideration of Policy 4.99. The matters of discretion include adverse effects from the discharge on a number of matters similar to those listed in Policy 4.99. Matter of discretion number 5 includes consideration of the managed aquifer recharge system "and its effectiveness in increasing the quantity of groundwater, or reducing the concentration of contaminants in groundwater". For these reasons, the matters of discretion provide sufficient scope to allow consideration of Policy 4.99 in relation to an application under Rule 5.191.
148	7.58	**The reporting officer advises that "information about the quality of the surface water used for recharge … required by the rule…" What is the language in Rule 5.191 that so requires?** *Response – AR* The Section 42A report incorrectly refers to the MAR provisions requiring information about the quality of the surface water used for recharge. Instead, the report should only refer to information being required on the receiving groundwater quality beyond the proposed MAR discharge point. The receiving water quality information is required by Condition 5 of Rule 5.191 and by item (4) of the Managed Aquifer Recharge Plan.
152	7.83	**Are the recommended words "…to minimise adverse effects" in Policy 4.99(c) necessary?** **Note that paragraph 7.112 (top of page 157) does not include these words.** *Response – AR*

		No – these words are unnecessary repetition in clause (c) of Policy 4.99, and we suggest their removal. The suggested wording is included in Update #2, and as follows: c. adverse effects on sites and values of importance to Ngāi Tahu, including effects associated with unnatural mixing of water, are avoided ~~as far as practicable~~ where it is practicable to do so, or otherwise remedied or mitigated ~~to minimise adverse effects~~; Red text = s42A Report Appendix E Part 1 Blue text = Update #2
152	7.85	**Could Rule 5.191 condition 5 be worded to simply say:** **"The application demonstrates that the proposal will not degrade groundwater quality; and"** *Response – AR* Yes. The suggested wording for condition 5 of Rule 5.191 is included in Update #2, and as follows: ~~5. The application demonstrates the proposal will not reduce the quality of human and animal drinking water at any existing drinking water supply source within 1 kilometre of the point of discharge; and where there are no existing drinking water supply sources within 1 kilometre of the proposal point of discharge, the application demonstrates there will be no degradation in groundwater quality further than within 1 kilometre beyond of the discharge point; and~~ 5. The application demonstrates that the proposal will not degrade groundwater quality; and Blue text = Update #2
154	7.100	**The reporting officer advises that the amendment requested is unnecessary as the rules only relate to surface water. Do the definitions in para 2.9 of the CLWRP of 'water' and 'surface water' exclude water that may contain wastewater (treated or untreated)? Would the officer explain why it is considered that the MAR rules would not provide for discharge of wastewater?** *Response – AR/IE* No, the CLWRP definitions for 'water' and 'surface water' do not explicitly exclude water that may contain wastewater.

		We considered that reference to 'surface water' in the chapeau of Rule 5.191 would be sufficient to exclude any discharge source other than surface water: "*The take and use of surface water … and the associated discharge of that water and entrained contaminants…*" Upon reconsideration, the inclusion of a new condition in Rule 5.191 that restricts the discharge of surface water that contains treated or untreated wastewater would be clearer and consistent with the intention of this rule. The suggested wording of the condition, included in Update #2, is: 7. … for resource consent~~.~~; and 8. The discharge does not contain wastewater. Blue text = Update #2
157	7.116	**Is the Forest and Bird submission 'on' PC7 as it seems to address provisions whose status quo is not amended?** *Response – PM/IE* No, Forest and Bird's submission on Policy 13.4.18 is not "on" PC7. Policy 13.4.18 is only proposed to be amended by removing the words "managed aquifer recharge and" in the chapeau of the policy. As explained in paragraph 7.118 of the Section 42A report, "the amendments to these provisions were consequential to the insertion of new region-wide provisions for MAR and therefore the changes are limited to removing references to MAR." While a small part of Policy 13.4.18 is proposed to be altered by PC7, the parts of the provision sought to be amended by Forest and Bird's submission are not altered. Where amendments are sought to parts of provisions that PC7 is not seeking to amend, this relief does not represent a change to the status quo advanced by the proposed plan change.
165	8.30	**The authors note one of the consequences of recommending a change to the definition of commercial vegetable growing is that some farms may require two consents (a discharge permit for the vegetable growing, and a land use consent for the remainder of the farm).** **How efficient is it to manage the impacts of a mixed farm through two separate consents (a land use for general farming and a discharge consent for commercial vegetable growing)?** **How practical is the proposed approach given differences between the nutrient management frameworks (e.g. use of Overseer vs use of alternative method**

		for estimating nutrient loss; differences in application of provisions – at the property scale (general land use farming rules), and the area scale (commercial vegetable growing rules)? *Response – AD* There will likely be additional costs for farmers who operate mixed farming systems due to the requirement to obtain discharge permits, in addition to land use consents they may already hold. However, one of the primary aims of a separate management regime for commercial vegetable growing is to reduce the need for nutrient budgeting; to recognise the difficulties growers face in modelling losses and the benefits of vegetable production to the community. Vegetable growers with short rotations are typically required to produce a large number of nutrient budgets to demonstrate their N losses, when compared to typical sheep, beef or dairy farms which are operated in a more stable manner. As a land use consent is fixed to the land, it does not allow for the 'movement' of nutrient losses to new land parcels. Therefore, a discharge permit is a useful option to accommodate the way in which many vegetable growers operate, using leased land. As it is proposed to use two different consent types to manage mixed farming systems, the different methodology for managing and accounting for nutrient losses can be isolated to each consent, but it is acknowledged that both consents may need to align with one another to avoid any potential conflicts, for example in meeting N loss limits on a land use consent. The alternative discussed in the s42A report is to amend the definition of 'commercial vegetable growing operation' to clarify what mixed farming operations would be managed through the commercial vegetable growing rules. This option would likely require some form of minimum area or percentage of vegetable growing area relative to the whole operation to be specified, in which case, some growing operations would not be captured. Additionally, land which may be used for vegetable growing for only a short time period may then be managed under the commercial vegetable growing rules and may not then be subject to N loss limits, even when used for sheep, beef or dairy. The final issue is again that this may be a land use consent and would therefore apply to the land specified, which would not allow for 'movement' to another land area.
166	8.38	**The amended definition does not retain the term 'rotation' – was that intended?** *Response – AD* Yes – this was intentional for ease of plan implementation to ensure the proposed framework applies to any commercial vegetable growing, regardless of whether there is an operational need to rotate across land areas. I note that

		paragraph 8.31 mentions the need to emphasise land rotation in the definition of commercial vegetable growing, this is an error.
170		**Are submissions seeking new rules for "low intensity horticulture" or "fruit growing" 'on' PC7?** *Response – AD* Submissions seeking rules for low intensity horticulture are "on" PC7 but submission relating to fruit growing are not "on" PC7 due to the difference in crop types. PC7 proposes provisions relating to commercial vegetable growing only, not fruit growing or the growing of vegetable crops not for human consumption. While 'horticulture' refers to crops wider than just vegetables, the submission from Horticulture NZ seeks amendments to specifically permit the growing of some vegetable crops and for this reason this part of submission is "on" PC7. The part of the Horticulture NZ submission and the submission from Peelview Orchard seeking to permit fruit growing is not "on" PC7.
171	8.70	**Is the Ballance submission seeking a new policy 'on' PC7?** *Response – AD/PM/IE* No – the Ballance submission seeking a new policy is not "on" PC7. The part of the Ballance submission referred to in this paragraph states: "It is understood that it is intended that the outcomes, limits and targets will be updated with successive reviews of the Plan. Specific provision should be made within PC7 for the implementation of a comprehensive monitoring program to improve data on both surface and ground water quality for use in establishing appropriate outcomes and limits. It is considered that a region-wide policy and accompanying method would be appropriate to give effect to this." … "Insert a new policy that requires the revision of water quality outcomes, limits and targets to be informed by a comprehensive nutrient management monitoring program;". In this case, the Ballance submission seeks a further policy that essentially details a process by which to review the plan provisions in the future. The submission also seeks a new monitoring programme to be required through additional policies. This would effectively bind future plan reviews, and is considered beyond the scope of PC7. There is a real risk that such an amendment would not have been appreciated by the wider public when reviewing PC7 as notified, and the submission does not advance a change to the status quo. The insertion of a new policy in this regard would be tantamount to introducing a new

		management regime for a resource where the previous regime was unaltered by the plan change.
174	8.86	**Do the reporting officers consider there is 'scope' for the Council to adopt the Baseline GMP Loss Rate suggested here?** *Response – AD/PM/IE* Yes. The Baseline GMP Loss Rate referred to in this paragraph is in relation to new Policy 4.36A and new Rule 5.42CC. These provisions are both newly introduced as part of PC7, and therefore the scope for potential amendments is relatively broad. For an amendment to be within jurisdiction of the Council to make, it must be within the scope of a submission. Paragraph 8.86 of the s42A report notes that changes to adopt the Baseline GMP Loss Rate is within the scope provided by general submissions to reduce nitrogen discharges. There are a number of general submissions on PC7 that seek to amend PC7 to be more stringent particularly in relation to nitrates, on the basis that the proposed restrictions are insufficient. This signals to the wider public that while PC7 has introduced some restrictions on nitrate losses, it is foreseeable that further restrictions could be imposed. Many submitters generally seek the amendments to PC7 to reduce nitrate losses from land uses and while they have not submitted specifically on the commercial vegetable growing rules, the proposed amendments to Policy 4.36A and Rule 5.42CC will achieve this. These provisions "reasonably and fairly raise" increased controls on nitrogen losses, and that all persons who would seek to submit on these provisions would have appreciated that changes could have been made to further restrict nutrient losses.
182	8.138, 1.140	**What opportunity would those interested have to question/challenge the boundaries and other details of nutrient management areas to be delineated on Planning Maps.** *Response – AD/PM/IE* The definition of "nutrient management areas" was recommended in the section 42A report and reads: "means a geographical area delineated on the Planning Maps to manage nutrient losses from land use and may be described as an Area, Nutrient Allocation Zone, sub-region, freshwater management unit or zone". The recommended definition of 'nutrient management area' does not require that further changes are made to the Planning Maps at this time. The nutrient management areas depicted on the Planning Maps have been, or will be in the future, established through plan change processes. The effect of the definition is

		to ensure that all currently mapped areas to manage nutrient losses from land use are captured by the rule, regardless of their names. Those who are interested in the boundaries and other details of the nutrient management areas will be able to question or challenge the delineation of those areas in future plan change processes, as and when more areas are mapped. The current operative CLWRP nutrient management framework, is managed using these different nutrient management areas and therefore interested parties have already had the opportunity to question or challenge the delineation of those areas.
185	8.156	**If Rule 5.43CB classified the activity as controlled, would the Council have the ability to manage cumulative effects of multiple consents in the same locality?** *Response – AD* As currently drafted the cumulative effects of multiple consents in the same locality could not be managed if Rule 5.43CB was a controlled activity as the entry conditions to the rule do not provide sufficient certainty that resource consents would achieve required nutrient reductions in each nutrient management area.
189	4B(a)	**In Appendix E Pt 1 (revised edn) is footnote 379 missing? Can it be supplied?** *Response – AD* Yes - the footnote is consequential to the amendment of the definition commercial vegetable growing operation (Ellesmere Sustainable Agriculture Incorporated (PC7-207.7), Pye Group (PC7-352.6), A Lim (PC7-478.1)).
191	8.197	**Would the Council have the authority by regional rule to stipulate where vegetable produced in Canterbury are consumed?** *Response – AD/PM/IE* No, it is not within the functions of regional councils set out in Section 30 of the RMA or the content of regional rules in section 68 of the RMA. Section 68 provides that a regional council may, for the purpose of carrying out its functions under the RMA, and achieving the objectives and policies of the plan, include rules in a regional plan. The functions of a regional council (and therefore matters over which the Council can exercise control by way of regional rule) are limited to those set out in section 30 of the RMA. None of the functions listed in section 30(1) allow the Council to control where vegetables produced in Canterbury are consumed. A rule which sought to do so would be outside the Council's jurisdiction.

221	11.118	**Would the intended meaning be clearer if the condition ("where the applicant … supplier") was repositioned at the start of the text, eg:** **"Where the applicant … water supplies, discharge of nutrients … is a discretionary activity."?** *Response – AR* Yes. The suggested wording of the chapeau of Rule 5.62, which is included in Update #2 is: **Where the applicant is an irrigation scheme or a principal water supplier, or the holder of the discharge permit will be an irrigation scheme or a principal water supplier, the ~~The~~ discharge of nutrients onto or into land in circumstances that may result in a contaminant entering water that would otherwise contravene s15(1) of the RMA~~, where the applicant is an irrigation scheme or a principal water supplier or the holder of the discharge permit will be an irrigation scheme or a principal water supplier,~~ is a discretionary activity.~~, provided the following condition is met:~~** Blue text = Update #2
222	11.123	**Are the BCIL and RSIL submissions seeking Rule 5.62 to be land use consents 'on' PC7 as they seem to address provisions whose status quo is not amended?** *Response – AR/PM/IE* No – the five submissions seeking that Rule 5.62 is changed from a Section 15 RMA discharge activity to a Section 9 RMA land use activity are not "on" PC7 as this is not linked with a proposed change to the status quo. While part of Rule 5.62 is proposed to be altered by PC7, the parts of the provision sought to be amended by BCIL and RSIL's submission are not altered. Where amendments are sought to parts of provisions that PC7 is not seeking to amend, this relief does not represent a change to the status quo advanced by PC7. There also remains a real risk that others would not have submitted on those requested changes, as changes to those parts of the provision were not signalled in the notified version of PC7. The five submissions on this matter are from BCIL (PC7-153.22), RSIL (PC7-235.20), AFIC (PC7-154.18), Ashburton River Irrigators Association (PC7-343.29), and Greenstreet Irrigation Society (PC7-312.34).
222	11.118-11.125	**The amendment to Rule 5.62 is not intended to alter the meaning, but to make the meaning clearer. It does not propose the non-notification clause (which**

		already stands part of the operative plan). So however persuasive it might find the submissions of Ngā Rūnanga and Forest & Bird, on this point, would the Council have authority to amend or delete the non-notification clause by decision on their submissions? *Response – AR/PM/IE* No – the Council would not have authority to amend Rule 5.62 in PC7 as sought in the submissions of Ngā Rūnanga and Forest & Bird. These submissions are not considered to be "on" PC7, as the non-notification clause and overall substance of Rule 5.62 is not proposed to be changed by PC7.
238	3.14	**In this paragraph, the reporting officers recommend the amendment to the title of Sec 14.6 requested by OWL. In that the submission requested inserting "Environmental flow' in the title, is that displayed in the title shown in Appendix E Part 1 (revised edn) pg 155?** *Response – MMC* No. It is omitted in error. It is included in Update #2 as: **Environmental Flow, Allocation and Water Quality Limits and Targets** Red text = s42A Report Appendix E Part 1 Blue text = Update #2
246	3.60	**Table 14(g) – How is a 'groundwater province' different from a 'groundwater allocation zone'? Is this concept described in any supporting documents?** *Response – MMC* In PC7, groundwater provinces are used to describe areas where groundwater is managed for quality purposes, whereas groundwater allocation zones are used for quantity management. Practically, there is little difference. However, as the areas are managed for different purposes, and do not necessarily cover the same geographic area (for some, more than one province is in a groundwater allocation zone), they are named differently. The explanation of Table 14(g) on page 187 of the Section 32 Report states: *Table 14(g) delineates separate groundwater provinces within the OTOP sub-region as sub-units within the FMU.* There is a map of the groundwater provinces in the OTOP Zone Implementation Programme Addendum (ZIPA) – it is attached to these answers as Attachment 1.

256	4.45	**Are all clauses of Policy 14.4.3 recommended to be deleted, or only clause (c)? Paragraph 4.45 of the s42A report states only clause (c) is to be omitted, however in Appendix E Part 1 all clauses are shown in strikethrough.** *Response – MMC* All clauses of Policy 14.4.3 are recommended to be deleted. I acknowledge that the analysis to support this is lacking in the Section 42A Report, and we provide this analysis here: I consider that Policy 14.4.3 has two parts – an outcome, and four sub-clauses that list methods to achieve that outcome. Overall, we consider that the statement of outcome is of more importance than the methods to achieve that outcome, and in the event of any conflict, the outcome statement should be preferred. This is on the basis that in considering the four stated methods, we hold concerns that limiting responses to those four methods will likely mean the outcome is not reached in the foreseeable future. Therefore, I recommend all four sub-clauses of Policy 14.4.3 be deleted. Further, I note that clause (d) falls into the category of policies that restate rules, as discussed at para 6.7 to 6.8 of Part 2 of the Report, and has overlaps with Policy 14.4.5. I note that the relevant rule is recommended to remain.
258	4.54	**Are the submissions seeking a new "Waipuna Protection Zone" 'on' PC7?** *Response – PM/IE* Arowhenua and Te Rūnanga support the proposed Mātaitai Protection Zone included in PC7. However, they also seek that the zone is extended to also protect waipuna in the Orari and Pareora catchments. As described in the section 42A report, "The primary purpose of the MPZ is to protect areas of Waipuna (springs) that provide habitat for māhinga kai and are taonga (treasured/sacred) to Te Rūnanga o Arowhenua and Ngāi Tahu." The Mātaitai Protection Zone is a new layer on the planning maps proposed by PC7. The purpose of the MPZ is to protect areas of waipuna. The submission does address a change to the status quo advanced by the plan change, as it is seeking to add further areas to the mapped MPZ. As the MPZ is a new layer, all persons were on notice that changes may be made to the boundaries of the MPZ, and there is no real risk that persons potentially affected by the changes sought have been denied an effective opportunity to participate. The changes sought are clear from the submission, and on this basis,

		it is submitted that the Arowhenua and Te Rūnanga submissions on extending the Mātaitai Protection Zone to also include Waipuna are "on" PC7.
		The wording of amended Policy 14.4.5(c) is rather clumsy. Would it be clearer if it was reworded so as to be more consistent with Policy 14.4.4? *Response – MMC* Yes. Suggested wording, which is included in Update #2 is: (c) ~~the~~ implement~~ation of~~ actions or methods to avoid, as a first priority, adverse effects on these sites, and where avoidance is impractical, requiring ~~in the first instance or minimise if avoidance is not practicable~~ adverse effects to be minimised. Blue text = Update #2
264	4.88	**To where, prior to the Tekapo Hydro Scheme, did the Tekapo River flow?** *Response – DC* Prior to the construction of the Tekapo Canal, the Tekapo River flowed south across the Mackenzie Basin to Lake Benmore, which was part of the Waitaki River prior to the construction of the Benmore Dam. Some water still flows in the Tekapo River to Lake Benmore, but most of the flow now goes west to Lake Pukaki, via the Tekapo Canal.
266	4.103	**In that the reporting officers make an exception of focussing on the views of tangata whenua:** **(a) Does Policy 4.55(b) specify taking into account Ngai Tahu values?** **(b) What would be added (other than confusion) by the remaining words of Policy 14.4.14?** *Response – MMC* (a) Yes, Policy 4.55 states: *Any discharge of water resulting from moving water from one catchment or waterbody to another in particular:* *…* *(b) takes into account Ngāi Tahu values;* *…* (b) Policy 14.4.14 is intended to provide a greater level of specificity of what is to be considered. The use of 'particular regard' is intentional, and will put

		greater deliberative emphasis on these matters than the 'take into account' language used in Policy 4.55.
267	4.88 [5.2]	**Last sentence: "…recording flow regime changes to occur in future decades…" Does this refer to 'recording', or to 'predicting' or 'modelling'?** *Response – MMC* A non-technical use of this term was intended, as it is part of an explanation of why the series of tables in this part of PC7 are numerous and complex. A synonym, and more appropriate word, would be "specifying". [Note: While the questions list attributes this to para 4.88, the phrase appears at para 5.2. The question has been answered on that basis.]
272	5.27	**The reporting officers recommend that Policy 14.4.6B is deleted. Is that recommendation marked in the revised edition of Appendix E, Pt 1, pg 132?** *Response – MMC/DK* Paragraph 5.27 (and the preceding paragraphs) lack some clarity, in that a final position with respect to Policy 14.4.6B is not stated with certainty. Our view is: (a) References to the C Block should be deleted; and (b) We are moderately supportive with respect to the remainder of the Policy supporting takes to storage, provided they meet the specified flow and allocation regimes. Therefore, the recommendation marked in the revised edition of Appendix E, Pt 1, pg 132 is correct.
272	5.31	**Is it intended that water taken under the permitted activity provision may be "in addition" to water taken under RMA s14(3)(b)?** *Response – MMC /DK* Yes, those takes could be "in addition". The Interpretation notes for the Small and Community Water Takes under Section 5 of the CLWRP state at point 2: "Nothing in this Plan affects an individual's right to take water in accordance with section 14(3)(b) of the RMA." These notes are located between Rules 5.110 and 5.111 of the CLWRP.
273	5.37	**Would you briefly explain how the policy would operate to "phase out overallocation"?** *Response – MMC*

		The effect of increased use of scheme water volumes will allow for increased reliability and efficiency compared to surface and connected groundwater takes from local sources and will enable the amount of water taken under individual resource consents to be reduced. As the majority of surface and connected groundwater water sources in the zone are fully or overallocated, this will assist with phasing out overallocation. While the reasoning was not specified, it was a recommendation (4.9.1(iv)) of the OTOP ZIPA. While this is a reason for the policy, other reasons include the increased management efficiency achieved by irrigators operating under irrigation scheme regimes. This preference for irrigation scheme water has become more common over the last decade, both in individual resource consent conditions, and in other sub-regions. For example, Chapter 15 of the CLWRP for the South Canterbury Coastal Zone includes these policies: *15A.4.20* *Surface water and groundwater flows are improved by:* *…* *b. utilising water available from irrigation schemes to the fullest extent possible before utilising run-of-river takes; and* *…* *15A.4.26* *Over-allocation of water is reduced by requiring applications for water permits affected by Sections 124-124C of the RMA to use irrigation scheme water, where available, to the fullest extent possible.*
275	5.46	**Would making decisions on the basis of amounts of money invested in irrigation scheme shares provide an incentive for reducing amounts of water being taken and restoring ecosystem health of surface water?** *Response – MMC* I am a little uncertain about this question – I assume the reference to 'making decisions' is a reference to decisions made by holders of irrigation scheme shares, not to decision making on PC7. Based on that assumption, I would suggest the Hearing Commissioners enquire of submitters – I would not want to speak for shareholders and their individual financial considerations, and nor do I know enough about the financial implications of shareholdings. For example, if shares give an entitlement to take water, can be easily transferred to other abstractors and there is demand for

		that water, then while an individual shareholder's water take may reduce, it would seem unlikely that the overall amount of water being taken would reduce.
276	5.55f	**(a) Is the overallocation to which this policy relates applicable to particular catchments and/or zones, or is it applicable to overallocation in the sub-region generally?** **(b) Where Rule 14.5.12 Condition 5b refers to the location of the proposed transfer, is that to be understood as referring to the location of the origin of the transfer, or the location of the destination?** *Response – MMC/DK* (a) Policy 14.4.13(b) refers specifically to "*over-allocated surface water catchments and Groundwater Allocation Zones*", so only particular zones, rather than the sub-region as a whole. (b) Rule 14.5.12(5)(b) refers to the location of the origin of the transfer. However, condition 6 of the rule requires that "*The point of take remains within either the same surface water catchment or Groundwater Allocation Zone*", so regardless of whether condition (5)(b) refers to the origin or destination take, both will be in the same catchment or zone, so the percentage surrender would be the same. If the origin and destination takes are not within the same catchment or zone, any proposed transfer would be treated as if it is a prohibited activity under Rule 14.5.13.
279	5.79	**Is there any advantage to the objectives and policies of adopting Option 2 rather than Option 1?** *Response – MMC/DK* As is discussed in the s42A report at paragraph 5.48, transfers with a surrender requirement can be utilised as a means to reduce over-allocation, given the inability to apply for new water takes in over-allocated catchments. Option 1 is advantageous in that it provides consent holders with the ability to transfer consents, while actively working to reduce over-allocation in the Temuka FMU. Transfers can also assist with an increase in efficiency and utilisation of the remaining allocated water. The disadvantage with Option 2 is the changing nature of the percentage to be surrendered, with a higher percentage likely to be a disincentive to transfer.

		Option 2 is advantageous in that it provides clear direction as to when transfers are and are not able to occur. However, the prohibition does not actively work to reduce over-allocation, and there is no clear timeframe for when the Temuka FMU will no longer be over-allocated, and transfers allowed. We consider Option 1 is more consistent with the wider planning framework seeking to phase-out over allocation, while Option 2 does not obviously aid in this goal.
282	5.100	**Can you explain how this conclusion is reflected in Appendix E Part 1?** *Response – MMC/DK* The strikeout of matter of discretion 4 has been omitted in error. It is included in Update #2 as: The exercise of discretion is restricted to the following matters: 1. The nature of the transfer, whether short term, long term, partial or full, and the apportioning of the maximum rate and seasonal or annual volume in the case of a partial transfer; and 2. The appropriateness of existing conditions, including conditions on minimum flow, seasonal or annual volume and other restrictions to mitigate effects and the need to update these to reflect the current flow and allocation regime; and 3. The reasonable need for the quantities of water to be transferred, the intended use of the water and the ability of the transferee to abstract and use those quantities; and ~~4. Any restrictions to be applied to the rate of take in times of low flow; and~~[XXX] ~~5~~4. Method to prevent fish from entering any water intake; and ~~6~~5. Where there is a change to the use of the water, or a change in the location the water is used, any adverse effects on Ngāi Tahu values including mahinga kai and the mauri of waterbodies, and the appropriateness of any mitigation measures including a lesser amount of water sought. Footnote XXX to refer to OWL PC7-321.75 Blue text = Update #2
282	5.108, 5.109	**The Federated Farmers' submission to change the activity status for Rule 14.5.13 from prohibited to non-complying is recommended for rejection). However, in Appendix E Part 1 a new non-complying rule has been included (Rule 14.5.12A) and the submission by Federated Farmers is cited as providing scope for its inclusion.** **Is the inclusion of Rule 14.5.12A intended or an error?**

		If intended, what is the scope for the insertion? *Response – MMC* The inclusion of Rule 14.5.12A is intentional. The matter is discussed more fully in relation to the equivalent rule in the Waimakariri section of the Report, at page 416, paragraph 5.35. We apologise for failing to include an appropriate cross-reference. The Federated Farmers submission is also the subject of the discussion in the Waimakariri section of the report, and given that submitter seeks the activity status for Rule 14.5.13 be non-complying instead of prohibited, that submission is considered to give scope for the new Rule 14.5.12A. It would be more correct to record a recommendation of partial rejection of the Federated Farmers submission on Rule 14.5.13.
283	5.108	**Presumably your conclusion here excludes situations where bore interference effects from the new deep groundwater well are not 'acceptable' in terms of Schedule 12, given that Appendix E Part 1 contains new Rule 14.5.12A?** *Response – MMC* Yes. Based on the discussion above, in relation to Rule 14.5.12A, the written approval from affected parties could be obtained, in which case those effects are no longer considered.
287	6.9	**Is the strikethrough in Policy 14.4.22 of the phrase "increased efficiency for any replacement of" a correct expression of the plan change proposal?** *Response – MMC* That phrase has been incorrectly struck out in paragraph 6.9. It is shown correctly in the tracked changes in Appendix E, Part 1.
289	6.17	**Are you saying here that submissions seeking to change the 50% and 100% values in 14.4.22(b) are not 'on' PC7?** *Response – PM/IE/DK* These submissions are not on PC7. The only changes to the clauses of Policy 14.4.23 are the removal of the Orari Catchment wording, and as stated in the s42A report, are considered editorial in nature. No changes are intended to the content of Policy 14.4.23, including the nature of stepped partial restriction percentages, and water users groups. Where amendments are sought to parts

		of provisions that PC7 is not seeking to amend, this relief does not represent a change to the status quo advanced by the proposed plan change. There also remains a real risk that others would not have submitted on those requested changes, as changes to those parts of the provision were not signalled in the notified version of PC7. [Note: While the question refers to Policy 14.4.22, Policy 14.4.23 appears to be the policy in question. The question has been answered on that basis.]
297 307 [313] 314 388 [389]	7.7 9.20f 9.50, 9.57 14.19, 14.22	**In several paragraphs of Pt 4 of the report, mention is made of managing the opening of mouths of certain rivers and lagoons. Is management of those mouths, during the life of the CLWRP, likely to be affected by sea-level rise?** *Response – DC/MMC* Yes. Assuming the CLWRP has a life of ten years, the projected sea level rise in New Zealand is approximately 0.05-0.1 m above those in 2020, based on MFE guidance from 2017. This magnitude of sea level rise may have some impact on the management of mouth opening for some rivers and lagoons. However, the interactions with other variables, such as the magnitude and timing of high and low flow events, may be the dominant drivers of river mouth management within the life of the CLWRP. Locally specific work on the short-term effects on the OTOP river mouths has not been undertaken. In general, higher sea levels may lead to river mouth closing more frequently and requiring mechanical opening more often, this will be most common at times of low flow. *MFE (2017) Coastal hazards and climate change: Guidance for local government.*
301	7.27	**Amended Table 14(i) in Appendix E Part 1 has (for the last four columns) the heading "Allocation limit (L's) (Pro Rata Partial Restrictions)". How are required pro-rata reductions in abstractions communicated to consent holders?** **Are pro-rata restrictions calculated daily or on some other time period?** **Are abstractor's pumps actually able to be varied to implement pro-rata reductions in abstraction?** *Response – DC/MMC* All irrigation restrictions are communicated to consent holders via the Irrigation Restrictions page on the Environment Canterbury website

		(https://www.ecan.govt.nz/data/irrigation-restrictions/), with a specific page for the Opihi Catchment north to the Orari Catchment. The restrictions are updated by 5 pm each day, to inform consent holders of the restrictions which will apply the following day. It is the responsibility of consent holders to check for any restrictions that may apply to their take. Pro-rata restrictions are calculated daily, based on the average of the preceding 24 hours flow, taken from midday to midday. The calculations are made and the website updated, with the pro-rata restrictions then applying midnight to midnight. The ability of abstractors' pumps to be varied sufficiently to implement pro-rata reductions is an issue that has been raised many times where pro-rata restrictions are utilised. The pragmatic solution of applying pro-rata restrictions to a consent holder's daily volume, rather than their rate of take, is usually taken. This means that while pro-rata restrictions are in place, rather than reducing their rate of take, a consent holder is able to pump at their maximum rate, but for a reduced time to meet the same daily volume restriction.
306	9.12, 9.14	**Would you explain the reference in para 9.12 to "effectively offset the resulting reduced flows…"; and the use of offset in places in para 9.14?** *Response – MMC/DK* The offsetting referred to paragraphs 9.12 and 9.14 relates to two types of take from the Opuha River system, as managed through OWL. For takes above the dam, and from tributaries that flow into the Opuha and Opihi rivers, the water released by OWL is not able to be physically abstracted by those takes. Instead, the release of water from the dam accounts for the reduction of flows into the Opuha and Opihi river system as a result of those takes. For takes below the dam, from the mainstems of the Opuha and Opihi rivers, the offsetting is direct, meaning that on balance, the same amount of water will remain in the river, regardless of any takes affiliated with OWL. This effectively means that those abstractors take water directly from the Opuha Dam, and that the Opuha and Opihi rivers are the means by which this water is conveyed.
313	9.53	**Is the 'additional modelling' the modelling referred to in Appendix D.6, and is the 'alternative option' the regime set out in Appendix E1 Part 1?** *Response – DC/MMC*

		Appendix D.6 included modelling of the notified PC7 and also the regimes requested by the AMWG and other parties, it also included an 'alternative option' which added monthly varying lake levels to the notified PC7 regime. This differs from the regime in Appendix E1 Part1 as it includes three minimum flow requirements for Full Availability, Level 1 and Level 2 in Table 14(w), alongside two sets of trigger levels in Table 14(x). The regime set out in Appendix E1 Part 1 is the alternative option and includes Level 1 (Full Availability under additional modelling) and Level 2 (Level 1 under additional modelling) in Table 14(w), with one set of trigger levels in Table 14(x).
318	9.75	**It is recommended to delete the phrase 'From 1 January 2025' from the title of Table 14(n). Is a similar change also required to the title of Table 14(m)?** *Response MMC/DK* Yes, the date reference in the title of Table 14(m) should be removed, given the date is included in the headings within the table. This change is consistent with the recommended changes to all other environmental flow and allocation regime tables in Section 14. The strikeout of the date in the title is included in Update #2 as: Table 14(m): North Opuha Environmental Flow and Allocation Regime – AA, AN, BA Permit ~~From 1 January 2025~~ Blue text = Update #2
339	11.80	**Do the reporting officers have any recommendation to make on this submission point (in the event the whole 'swaps' measure is not omitted entirely)?** *Response – MMC* We recommend rejecting this submission point, should a 'swap' regime be retained. The purpose of the 'swap' regime is to reduce overallocation, which is the basis of the condition. When discussed in the Section 32 report, it is generally in the context of reducing overallocation. We are unsure of why the submitters contend that "it would preclude 'swaps' of those permits that have, has a result of the implementation of Plan Change 7. changed status from groundwater to stream depleting groundwater permits." (Page 64 of Federated Farmers submission). However, it would do so, if that surface water body was not overallocated. Overall, if the 'swap' provisions were retained, we do not consider that T block water should be available to all holders of resource consent

		to abstract surface water, as the T block could potentially be quickly exhausted, without the benefits of reducing surface water overallocation.
		Is the main outcome of the s42A changes recommended to each of Tables 14(m) to 14(y) to impose notified 2025 allocations and minimum flows now and the 2030 provisions in 2025? **What is the recommended current regime for Te Ani Wai (Table 14(r))?** **Regardless of the answers to the above questions, can we please receive a Supplementary Report explaining in detail the changes recommended to each of Tables 14(m) to 14(y)?** *Response – MMC* Yes, shifting the notified 2025 allocations and minimum flows forward in time to be the current regime, and the 2030 provisions to apply in 2025 are one of the main changes to each of Tables 14(m) to 14(y). The second significant change is to recommend the immediate imposition of a partial restriction regime that is equitable and effective at preventing the minimum flow being breached. The "From 1 January 2025" was inadvertently included in Table 14(r). It is shown as deleted in Update #2. That change will identify that the recommended flow regime set out in that table applies currently to the Te Ana Wai. A Supplementary Report will be provided on or before 26th June 2020.
		Is the Table 14(x) Alternative Management Regime as notified able to be implemented under the existing conditions of existing OWL consents or is a new consent (or a change to consent conditions) required to implement it? **If the latter, why is it necessary to include notified Table 14(x) in the Plan as it would seem to deal with details that are best thoroughly examined in a consenting process?** *Response – MMC/DK* The alternative management regime is unlikely to be able to be implemented through the current consents held by OWL. Consent CRC155950, authorises the discharge of water to the Opuha River, over the weir. This resource consent sets monthly minimum flows at Saleyards Bridge that must be met (taking into consideration AA, BA and AN permits), dependent on the lake level in the Opuha Dam. The consent conditions do not appear to

		reference the inflows and snow storage described in the table, and the lake levels are used in a different manor to those in Table 14(x). CRC155950 expires on 9 October 2030. In response to the second question, it is not necessary to include Table 14(x) in the Plan. We note that some elements of the notified PC7 provisions in respect of the operation of the Opuha system appear to be close to those we might expect to see in resource consent conditions, and yet did not paint a full picture in themselves. We have sought to reduce some of what we perceive to be an overlap with a resource consent process in the recommendations in the s42A report, but as noted in response to the question below, there remains a lack of clarity about operation of the scheme, responsibilities of different parties and the extent to which the existing operation of the scheme should be recorded in the Plan provisions. As a general comment, we would be happy to go further with reductions in detail, such as the deletion of Table 14(x), but note that it arose out of substantial engagement with the Zone Committee with the local community[5]. We expect that greater clarity on this, and what is appropriate to be included in the Plan, will come through evidence from submitters and questions to submitters from the Hearing Panel.
		Is the purpose of the s42A <u>amended</u> Table 14(x) "Minimum Flow Thresholds" to trigger a move from Level 1 to Level 2 for the Opihi mainstem at SYB in amended Tables 14(v) and 14(w)? **If so, is that clear on the face of the amended provisions?** **If not, what does trigger a move from Level 1 to Level 2 for the Opihi mainstem at SYB in amended Tables 14(v) and 14(w)?** **Is it just the lake levels set out in Table 8 on page 632?** **Or does it include lake inflows and snow storage (as indicated by page 261 of the S32 report)?** **Whatever the triggers, is the regime clear on the face of the amended provisions?** *Response – DC/MMC*

[5] Much of that background material is included in the OTOP ZIPA, at section 5.3, but we note that the detail of Table 14(x) was not set out.

		Yes, amended Table 14(x) is intended to provide the triggers for movement from Level 1 to Level 2. That is not particularly clear in the recommended provisions. A move from Level 1 to Level 2 is intended to occur when two out of the three trigger thresholds in Table 14(x) are met. These triggers are lake level, snow storage and inflows to the lake. Rule 14.5.29 provides for the discharge of water to augment the Opuha and Opihi Rivers as a discretionary activity, provided conditions are met. There is no reference to Table 14(x) in this Rule. Policy 14.4.37 as notified referred to Table 14(x), with the recommended changes referring to a more nebulous "below specified levels". Subject to responses to earlier questions relating to the potential for deletion of this Table, it would be clearer if this Table was referred to in Policy 14.4.37 instead of "below specified levels". We also note the different possible interpretations of "limited application" in the first line, and we clarify that this was intended to mean that the reduced minimum flow would be available only when preconditions (the "specified levels") were met, and the normal minimum flow returned to as soon as possible. Despite the above potential further refinement, greater clarity could come from a single higher-level policy about expectations for any future resource consent, or review of existing resource consents for the operation of the Opuha system. This policy could provide clarity on the 'regime' by amalgamating policies 14.4.35, 14.4.36 and 14.4.37 (as recommended to be changed), and adding a requirement for the regime in any resource consents to be monitorable and enforceable. Again, we expect greater clarity on this, and what should be included in the Plan, following submitter evidence on the topic.
323	10.11	**Can s14(3)(b) takes be restricted by a Plan specifying when such takes are likely to have an adverse effect on the environment?** *Response – PM/IE* Yes. Section 14(3)(b) allows a person (without a resource consent) to take, use, dam or divert water if the water is required to be taken or used for an individual's reasonable domestic needs, or for the reasonable needs of an individual's animals for drinking water, and the taking or use does not, or is not likely to have, an adverse effect on the environment. The Environment Court commented on this authorisation in *Carter Holt Harvey Ltd v Waikato Regional Council* [2011] NZEnvC 380 (at [111]). The Court accepted that a rule which sought to constrain section 14(3)(b) takes where they exceeded 100 percent of the primary allocable flow was lawful, as "the authorisation to take pursuant to Section 14(3)(b) is not unlimited". The Court stated "there is no qualifier to "adverse effect" so, on the face of it, any effect

		which is greater than de minimis would be sufficient to terminate the statutory authorisation". A plan may impose restrictions on the rate of take, or the volume of water that may be taken under section 14(3)(b) provided that the restrictions are to "define the point at which a take, that would otherwise be authorised under section 14(3)(b), has, or is likely to have, an adverse effect, and hence fails to gain the statutory authorisation." A restriction on the rate of take, or the volume of water that may be taken could also be used to define what is "reasonable" in terms of "an individual's reasonable domestic needs" or "the reasonable needs of a person's animals for drinking water". Such restrictions may be imposed through planning provisions, or by adopting guidelines outside the planning provisions.
325	10.19	**If Policy 4.102 is retained how should Rule 14.5.34 be amended?** *Response – MMC/DK* If Policy 4.102 is retained, we recommend the deletion of condition 4 of Rule 14.5.34, and including a matter of discretion requiring consistency with Policy 4.102. A change to this effect is sought by the TDC submission, point PC7-292.117 and 136. If the Hearing Panel was of a mind to retain Policy 4.102 and make this change, then to ensure consistency across the matters of discretion included in the rule, we would recommend the wording of matter 5 state: "*The consistency of the proposal with Policies~~y~~ 14.4.43 and 4.102*".
326	10.22	**Which matter of discretion explicitly allows decision-makers to impose a residual flow?** *Response – MMC/DK* None of the matters of discretion are explicit with respect to residual flows. However, as specifying a residual flow in consent conditions can benefit other surface water users, surface water flows, and the related ecosystem values, including those of indigenous fauna and flora, residual flows could be required under matters of discretion (3), (4), (6) or (9).
327	10.26	**Can we please have a Supplementary Report comparing (in tabular form) the Recommended minimum ecological flows set out in the various Memos in Appendix 1 of report R19/80 to:** • **The notified minimum flows for all OTOP rivers list in Section 14 Tables**

		• **The s42A amended minimum flows for all OTOP rivers listed Section 14 Tables** *Response – SH/MMC/DK* Yes. A table has been provided as Attachment 2 which sets out the ecological flows, notified minimum flows and recommended minimum flows for all rivers listed within the Section 14 Tables. The ecological flows in the table have been obtained from various sources, with those sources footnoted. In most cases, ecological flows have not been explicitly recommended, as detailed below: • For the Orari FMU, ecological flows are generally from Golder Associates (2013) evaluations of the ZIPA recommendations. For several of the tributaries, recommendations based on the naturalised MALF were made, as there was no technical justification for any alternative without further hydrological data. • For the Temuka and Opihi FMUs, ecological flows are based on ECan (Hayward, 2019) reporting looking at minimum flows based on the draft NES for ecological flows and NIWA (Jellyman, 2018 and 2019) reporting on ecological flows, with ranges of flows identified for different levels of protection. • For the Timaru FMU, no ecological assessment was undertaken as part of the PC7 process. • For the Pareora FMU, ecological flows are from Golder Associates (2008, 2011) evaluations of the ZIPA recommendations. To date, there has not been a single OTOP wide review of, or recommendation on, ecological flows. In looking at the ecological flows themselves, it is useful to acknowledge that ecological flows can vary, depending on the ecological values that are sought to be protected. *Golder Associates, 2008: Pareora River aquatic ecology and minimum flow requirements. Report prepared for Environment Canterbury by Golder Associates Golder Associates, 2011: Methods and effects assessment: Pareora River environmental flow review. Report prepared for Environment Canterbury by Golder Associates* *Golder Associates 2013: Orari River Catchment: ecological values and flow requirements. Report No. 0978110107_001_R_RevB prepared for Environment Canterbury and Coopers Creek ecological values and flow requirements. Report No. 0978110107_002_R_Rev0 prepared for Environment Canterbury*

		Hayward 2019: Surface water quality and aquatic ecology technical report to support the Orari-Temuka-Opihi-Pareora limit-setting process. Appendix 1, Memo 17 Section: A Block regimes and B Block regimes *Jellyman P. 2018: Opihi catchment ecological flow assessment. NIWA client report No. 2018158CH prepared for Environment Canterbury* *Jellyman P. 2019: Lower Opihi River ecological flow assessment. NIWA client report No. 2019231CH prepared for Environment Canterbury*
344	12.7	**Do the authors mean there has been a reduced frequency of periphyton blooms in the Opuha River since the Dam's construction, or do they mean there has been a trend for decreasing water quality (due to periphyton blooms) since the Dam's construction?** *Response – SH/DK* We apologise for the unclear wording of this paragraph – the s42A report, when discussing periphyton levels in the Opuha River should refer to an increasing trend since the construction of the Opuha Dam, rather than a decreasing trend. In short, there has been more nuisance periphyton since the dam construction. This doesn't necessarily mean that there is ongoing deterioration, rather a step change after the dam construction, and again when didymo became established, with further detail provided below. Lessard et al. (2013) demonstrated periphyton cover, particularly benthic mats, increased significantly in the Opuha River after the dam was constructed and commissioned (long term monitoring site at Skiptons Bridge) compared to the long term monitoring site on the Opihi River above its Opuha confluence. The initial periphyton community in the lower Opuha River after the dam construction was dominated by the potentially toxic cyanobacteria *Phormidium* sp (now reclassified as *Microcoleus*) and then became dominated by mats of the invasive alga *Didymosphenia geminata (*didymo) after 2007. While the presence of the dam did not cause the incursion of didymo, the regulation of river flows and low dissolved phosphorus concentrations contribute to didymo's dominance in the periphyton community in the Opuha River. It is well recognised that artificially regulated rivers can have significant impact on reducing flushing and bed-moving floods, thus increasing the periphyton

		accrual period and reducing biomass scouring floods. This effect has been apparent in the Opuha River. *Lessard, J., Hicks, D.M., Snelder, T.H., Arscott, D.B., Larned, S.T., Booker, D., Suren, A.M. (2013) Dam design can impede adaptive management of environmental flows: a case study from the Opuha dam, New Zealand. Environmental Management, 51(2): 459-473.*
347 350	12.17 12.33	**Would you identify the paragraphs in Pt 4 Section 8 that addresses the corresponding Ravensdown submission?** *Response – LM/MMC* The s42A report incorrectly refers to Part 4 Section 8. The reference should be to Part 5 Section 8, with the relevant paragraphs being 8.192 to 8.194, on page 503.
366	12.132	**In light of this conclusion (second to last sentence) should Policy 14.4.16(a) be amended to clearly state that it applies to intermittently flowing springs that are actually flowing i.e. that have water in them?** *Response – MMC/DK* We consider that this amendment is dependent on the definition of springs. The s42A report does not currently make a recommendation on this definition, concluding at page 38, paragraph 4.15 that further information from submitters would be useful to inform a recommendation. We acknowledge that in some cases, it may be appropriate to exclude stock from a spring year round, if it flows for most of the year, but dries up through late summer. Conversely, where a spring only runs after heavy rainfall, it may be appropriate to only require stock exclusion when water is flowing.
369	12.153	**Policy 14.4.16(b) appears to address Rule 14.5.26 (the MPZ). Therefore, why does Policy 14.4.16(a) also need to address the MPZ?** *Response – MMC/DK* Policy 14.4.16(a) (additional waterbody types) relates to Rule 14.5.25 and Policy 14.4.16(b) (additional classes of stock) relates to Rule 14.5.25A. We acknowledge there is room for improvement in the drafting of clauses (a) and (b) and the subsequent rules, to aid clarity and improve implementation. Following the hearing of evidence and other potential changes to the rules, such as limitation son them or expansion in relation to springs and Waipuna

		Protection Zones, we will offer a further revision to improve the structure of the policy and rules.
369	12.153	**In light of earlier recommendations, would be helpful if Rule 14.5.25 was amended to read "Within …. does not include any sub-surface drain, or spring and artificial watercourse that does not have surface water in it."** *Response – MMC/DK* Potentially yes. In light of our response to the earlier questions, particularly above in respect to page 366, para 12.132, we consider that the related issue of the definition of 'spring' needs to be considered in parallel to the wording of relevant policies and rules.
376	12.193	**Amended Policy 14.4.18(a) uses the term "additional reductions" and 14.4.18(c) uses the term "further reductions". Are these meant to refer to the same thing?** *Response – LM/MMC* Yes, this wording is meant to refer to the same thing. For consistency with the rest of the plan provisions, we recommend the 'further reductions' wording be applied across the policy. It is included in Update #2 as: Water quality is improved ~~in the Orari, Opihi and Timaru Freshwater Management Units~~ by: a. requiring ~~additional~~further reductions of nitrogen losses in ~~defining~~ the Rangitata Orton High Nitrogen Concentration Area, Fairlie Basin High Nitrogen Concentration Area and Levels Plain High Nitrogen Concentration Area ~~within which targeted reductions of nitrogen~~ in accordance with Table 14(zc) ~~are required~~; and Red text = s42A Report Appendix E Part 1 Blue text = Update #2
376	12.195	**What amendments to Table (zc) "for the purposes of clarification" were considered appropriate?** *Response – LM/MMC* Paragraph 12.206 recommends that the word cumulative is deleted from the table heading row for clarity. This strikeout was omitted in error.

<table>
<tr>
<td></td>
<td></td>
<td>In addition to this change, we have identified that it may be useful to footnote the notes below Table 14(zc), to clarify which aspects of the table these notes relate to.

These changes are included in Update #2 as:

<u>Table 14(zc): Staged Reductions in Nitrogen Loss for Farming Activities in High Nitrogen Concentration Area</u>
<table>
<tr><th rowspan="2">High Nitrogen Concentration Area (see Planning Maps)</th><th rowspan="2">Farming Type[2]</th><th colspan="2">Cumulative pPercentage reductions in nitrogen loss and dates by which these are to be achieved[1]</th></tr>
<tr><th>By 1 January 2030</th><th>By 1 January 2035</th></tr>
<tr><td rowspan="2">Rangitata - Orton</td><td>Dairy</td><td>10%</td><td>20%</td></tr>
<tr><td>All other</td><td>5%</td><td>10%</td></tr>
<tr><td rowspan="2">Fairlie Basin</td><td>Dairy</td><td>10%</td><td>-</td></tr>
<tr><td>All other</td><td>5%</td><td>-</td></tr>
<tr><td rowspan="2">Levels Plains</td><td>Dairy</td><td>10%</td><td>20%</td></tr>
<tr><td>All other</td><td>5%</td><td>10%</td></tr>
</table>
[1] The starting point for applying each percentage reduction in nitrogen loss in Table 14(zc) is generally the Baseline GMP Loss Rate except as otherwise provided for in Policy 14.4.20.
[2] For the purposes of applying the nitrogen reductions in 14(zc), 'Dairy' farming does not include 'Dairy Support' activities. 'Dairy Support' is classified under 'All other' farming activities.

Blue text = Update #2</td>
</tr>
<tr>
<td>378</td>
<td>12.206</td>
<td>Is this recommendation reflected in Appendix E Part 1?

Response – LM/MMC

No, the recommended strikeout was omitted in error. Please refer to the response above in relation to paragraph 12.195 for the updated Table 14(zc) text.</td>
</tr>
<tr>
<td>379</td>
<td>12.209</td>
<td>Nitrogen losses from farmed land used for industrial wastewater disposal will be a combination of losses from the farmed animals (including fertiliser etc) and from the wastewater discharge.

Do the words “… in addition to Policy 14.4.18 …” in Policy 14.4.28 and 14.4.41 mean that in practice that such land in, for example, an “all other” land use in Levels Plains will effectively have its overall nitrogen losses reduced by 40% by 2035?</td>
</tr>
</table>

		Is a policy distinction required between land used for wastewater disposal that is grazed and land that is not grazed? *Response – LM/MMC* No, Policies 14.4.28 and 14.4.41 require industrial and trade waste disposal activities to reduce point source discharges of nitrogen by at least 30% below current consented rates in the Rangitata Orton and Levels Plain HNCAs. Table 14(zc) requires reductions from the Baseline GMP Loss Rate. Given the different starting points for each requirement we consider that these are separate measurements and that the consent holders should retain flexibility in how they choose to implement the reductions. We recommend deleting the phrase "~~in addition to Policy 14.4.1819~~" in Policies 14.4.28 and 14.4.41 to address this confusion. This update is shown in Update #2. This would remove any need to differentiate between types of land use where there are industrial discharges.
379	12.210	**This paragraph starts: "Policy 14.4.28 requires industrial and trade waste activities in the Levels Plain HNCA…" In the revised edition of Appendix E Part 1, Policy 14.4.28 refers to the Rangitata Orton HCNZ. Is the reference to Policy 14.4.28 and to the Levels Plain HCNA erroneous?** **Would you explain this, please.** *Response – LM/MMC* Yes, this is an error in the report. The sentence was written to summarise Policy 14.4.41 and should read as follows: "~~Policy 14.4.28~~ Policy 14.4.41 requires industrial and trade waste activities in the Levels Plain HNCA to reduce nitrogen losses by 30% below their consented rate by 2035."
387	14.13	**Is there a typo in quotation of description in NPSFM of 'Natural form and character'? Also, is 'clarity' the subject of item vii, not item vi?** *Response – MMC/DK* Yes, the report should refer to 'natural form and character', rather than the 'natural form and character of freshwater'. Yes, clarity is the subject of clause vii. A formatting error in the Section 42A Report means clause 'vi. the colour of the water; and' has not been reflected

		correctly in the numbering, resulting in clause vii being referred to in the report as clause vi.
389	12.24	**Is the Orapikao Water Users request seeking new policy a submission 'on' PC7?** *Response – PM/IE* The Orakipaoa Water Users opposed the classification of the Orakipaoa Creek as a High Naturalness Water Body. The submission stated: "As a result, the Orakipaoa water users are seeking inclusion of a specific policy ensure water permits are able to be renewed in the future, who are within the Orakipaoa Creek and wider upstream catchment including Burkes Creek who could potentially be considered to impact the HNWB (especially during the consent renewal process)." As the Orakipaoa Creek has been newly added to the list of high naturalness water bodies, on its face the introduction of a specific policy does appear to be in relation to a change to the status quo advanced by the proposed plan change. However, there is a real risk that persons potentially affected by the changes sought (i.e. persons seeking to protect the creek and its high naturalness qualities that would be affected by a policy specifically for the replacement of consents) would not have appreciated that an amendment of this sort could be made. Those persons may have been denied an opportunity to participate in relation to these proposed amendments. For those reasons, Orakipaoa Water Users' submission seeking a new policy is not "on" PC7. If Orakipaoa Water Users (and Federated Farmers) wish to seek this relief, they should demonstrate how it is within the Council's jurisdiction.
389	14.26	**The analysis appears to be incorrect as the s42A Report recommends deleting the T Block from Table 14(zb) in the Orari-Opihi Zone and the A block is over-allocated. Can the authors please reconsider the submitter's requests?** *Response – MMC/DK* Yes, the analysis is incorrect, as this section had been prepared prior to the T block analysis, and not reconsidered – we apologise for that oversight. Under Rule 14.5.5, the replacement of these surface water takes would be non-complying activities, and Policy 4.6 would be a significant hurdle. Policy 4.6 reads: *In high naturalness water bodies listed in Sections 6 to 15, the damming, diverting or taking of water is limited to that for individual or community stock or*

		drinking-water and water for the operation and maintenance of existing infrastructure. We are of the view that the High Naturalness classification of these waterbodies ought to remain, along with the existing non-complying activity status for new takes. We are conscious of the significant difficulty that these existing abstractors would face if the T block is not available. Upon reconsideration, we recommend that if the T block is removed, then the ability for this small number of abstraction points to move to groundwater that is not hydraulically connected to these surface waterbodies, potentially through a bespoke rule limited to replacement of surface water abstractons affected by new High Naturalness classifications. If the Hearing Panel were minded to delete the T block and grant this subsequent relief, we could provide such a rule to the Hearing Panel.
393	1.2	**The first bullet point describes an amendment that would be made by PC7 that is delineated in Figure 1. Where, in the revised edition of Appendix E is the figure referred to as Figure 1? If it is intended to refer to the figure displayed on pages 60 and 61, would it be conventional to avoid ambiguity and label them, or one of them, as Figure 1?** *Response – AF* The figure referred to as "Figure 1" is displayed on pages 60 and 61 of Appendix E, however it is not labelled. It would be conventional to avoid ambiguity by labelling the proposed Figure on page 61 as "Figure 1". This is shown in Update #2 as: Figure 1 - Waimakariri Sub-region Blue text = Update #2
397	3.15	**Where is the reclassification to "hill fed lower" addressed in Appendix E Part 1?** *Response – AF* Part C of PC7 introduces river type classifications for waterbodies within the Waimakariri sub-region. The river type classifications are mapped in the Planning Maps. The amendments to the Planning Maps made by PC7 identifies View Hill Creek, Coopers Creek and the Eyre River as "hill-fed lower" rivers. The deletion of Policy 8.4.5 means that the river classification that applies to these rivers is that which is included in the Planning Maps. No other recommended amendments are included in Appendix E Part 1 to provide for this.

405	4.7	**Does this submission about the meaning and effect of 'avoid' match the remarks on this topic in Justice Arnold's judgment (for the majority of the Supreme Court) in King Salmon?** *Response – PM/IE* Beef and Lamb New Zealand's submission on Policy 8.4.7 stated "Under current case law, "avoid" is a strong word, meaning "not allow" or "prevent the occurrence of". This may have the effect of prohibiting activities, which does not appear to be the intent of PC 7." The submission sought that the Council deleted "avoid" from this policy and replaced it with a more appropriate term which would reflect the intent of the plan change. In *King Salmon*, the Supreme Court was required to interpret the meaning of the word "avoid" in the context of policies in the New Zealand Coastal Policy Statement. The Court considered that "given the juxtaposition of 'mitigate' and 'remedy', the most obvious meaning is 'not allow' or 'prevent the occurrence of'." The Court stated that "in the sequence 'avoiding, remedying, or mitigating any adverse effects of activities on the environment' in s 5(2)(c), for example, it is difficult to see that 'avoid' could sensibly bear any other meaning." Further, the Court considered that policies expressed in more directive terms will carry greater weight than those expressed in less directive terms, and some policies may be stated in such directive terms that the decision-maker has no option but to implement it. Policy 8.4.7 (as proposed to be amended in the section 42A report) requires "avoiding as a first priority" adverse effects on wāhi tapu and wāhi taonga. The policy recognises that "only where avoidance is impracticable: should adverse effects be minimised, rather than avoided. In this case, the analysis of the meaning and effect of "avoid" is consistent with the Supreme Court's decision in *King Salmon*. The Court in that instance was concerned with a policy which stated "avoid", rather than "avoiding as a first priority". "Avoiding as a first priority" recognises that other options (i.e. remedying or mitigating) may be available. "Avoiding as a first priority" is less directive than a policy simply requiring avoidance, and therefore does not meet the threshold of a policy where the decision-maker has no option but to implement the requirement to "avoid". The decision-maker must make another assessment, regarding whether avoidance is impracticable. For these reasons, the policy does not have the effect of "prohibiting activities", and therefore no amendments to the policy are recommended.

409	4.28	**Is the Ngāi Tūāhuriri Rūnanga submission 'on' PC7?** *Response – PM/IE* Yes, the Ngāi Tūāhuriri Rūnanga submission is 'on' PC7. The Ngāi Tūāhuriri Rūnanga submission seeks that a further allocation is provided in Table 8-3 for mahinga kai enhancement from Courtenay Stream. Table 8-3 is a proposed new introduction as part of PC7, and provides environmental flow and allocation limits for mahinga kai enhancement purposes. Table 8-3 is an entirely new provision introduced by PC7. The submission does address a change to the status quo advanced by the plan change, as it is seeking to add further areas to the table and provide an additional flow and allocation limit. As Table 8-3 is a new provision, all persons were on notice that changes may be made to the included allocation limits and surface water allocation zones, and there is no real risk that persons potentially affected by the changes sought have been denied an effective opportunity to participate. The changes sought are clear from the submission. For these reasons, the Ngāi Tūāhuriri Rūnanga submission is "on" PC7. However, a merits-based response for recommending the rejection of relief is also provided, on the basis that the change sought would be inconsistent with the policies of the NPS-FM.
420	5.53	**Should amended Rule 8.5.13 only cross-refer to conditions 1,2 and 3 of Rule 8.5.12?** *Response – AF* Yes. The change is shown in Update #2 as: **The taking and use of groundwater that will replace an existing surface water or groundwater permit that has a direct, high or moderate stream depletion effect that does not comply with one or more of ~~the~~ conditions 1, 2~~,~~ and 3~~, 5 and 6~~ of Rule 8.5.12 is a prohibited activity.**[6] Red text = s42A Report Appendix E Part 1 Blue text = Update #2
420	5.58	**(a) In Policy 8.4.17(1)(a), what is the object whose boundary is not to be transgressed by a transfer? Is it a cadastral boundary? Or a boundary of a**

[6] Consequential to Federated Farmers PC7-430.115

		'property'? Or of a 'farming enterprise' as defined in the CLWRP? Or of a 'site' as defined in the CLWRP? **(b) In Policy 8.4.18(a), what is the destination of transfers that are to be restricted? It seems to say transfers to certain permits, is that what is intended? Or is it transfers to sites of certain 'takes'?** *Response – AF* a) Policy 8.4.17(a) in Appendix E does not specify the object whose boundary is not to be transgressed by a transfer. The use of the word "boundary" is a typographical error and should state "property", as per the notified version of PC7. This change is shown in Update #2 as: a. no transfer of the point of take o~~nf~~ a water permit beyond the property ~~boundary~~ to which the take applies; and Red text = s42A Report Appendix E Part 1 Blue text = Update #2 (b) The intention of Policy 8.4.18(a) is not to restrict the transfers **to** certain permits (as a destination of the transfer). Rather, the policy intention is to restrict transferring water permits where the permit to be transferred has not been exercised in the preceding 5 years. The recommended changes in Appendix E obscures this intent and there is benefit in retracting some of the recommended changes to Policy 8.4.18(a). These changes are shown in Update #2 as: a. only granting a permit to ~~restricting the~~ transfer ~~of~~ surface water from one site to another where the ~~to~~ permit~~s that have~~ has been exercised ~~and records of past use are provided which demonstrate the water to be transferred has been used~~ in the preceding 5 years; and Red text = s42A Report Appendix E Part 1 Blue text = Update #2
421	5.65	**In Policy 8.4.17(a) what do the words ".. beyond the boundary …" mean? Can that meaning be more clearly stated?** *Response – AF* The words "beyond the boundary" should read "beyond the property". This clause provides for a holder of a water permit to transfer the whole or any part of the holder's interest in the permit to any owner or occupier of the property as

		provided for under s136(2)(a) of the RMA. Section 136(2)(a) of the RMA uses the word "site" rather than "property". While there is limited scope for making amendments to Policy 8.4.17, should the Panel consider there is scope for further improvements to the policy, Policy 8.4.17(a) could be deleted, as it effectively repeats the requirements of Policy 8.4.17(b).
422	5.73	**Referring to the version of Policy 8.4.18 with recommendations marked up, what would be the words that would have the effect described in this paragraph (i.e. specifying only transfer of amounts of water that records show was used in the preceding 5 years)?** *Response – AF* The words that would have the effect described in paragraph 5.73 are included as condition 1A of Rule 8.5.17, rather than including this level of detail in Policy 8.4.18. This reflects the plan drafting approach taken by the s42A reporting officers.
424	5.84	**Would it be clearer if Rule 8.5.17 was reordered so the initial allowable volume of transferable water is determined first (clause 1A) and then 50% of that volume is required to be surrendered upon transfer (clause 1).** *Response – AF* Yes. This is shown in Update #2 as: 1A The volume of water able to be transferred is restricted to the annual average volume of water used in the preceding five years, as demonstrated with actual use records; 1. In over-allocated surface water allocation zones, 50 percent of the rate of take or volume of water to be transferred is surrendered unless the transfer of water is for community water supply or stock drinking water requirements; and ~~1A The volume of water able to be transferred is restricted to the annual average volume of water used in the preceding five years, as demonstrated with actual use records; and~~ 2. There is no transfer of any allocation of water or any water permit that has not been ~~exercised~~ used in the preceding 5 years. [7] Red text = s42A Report Appendix E Part 1 Blue text = Update #2

[7] Fish & Game PC7-95.34

426	5.97	**If Rule 8.5.18 includes groundwater should not Policy 8.4.19 do the same?** *Response – AF* Clause (a) of Policy 8.4.19 refers to surface water and groundwater limits as follows: *"the proposed take in combination with all existing consented takes does not result in any exceedance of the allocation limits in Tables 8-1, 8-2 and 8-3".* At paragraph 5.98 on page 426 of the s42A report, we recommend the deletion of clause (a) of Policy 8.4.19, however this deletion was not included in the tracked changes version of the provisions in Appendix E. The Errata Table issued on 29 April updated Policy 8.4.19 shows the recommended deletion of clause (a). Should the Hearing Panel disagree with the recommendation to delete clause (a) of Policy 8.4.19, then Policy 8.4.19 (a) should also include reference to groundwater allocation limits in Table 8-4, as follows: "the proposed take in combination with all existing consented takes does not result in any exceedance of the allocation limits in Tables 8-1, 8-2, ~~and~~ 8-3 and 8-4. This is not shown in Update #2 on the basis that it is our recommendation to delete this clause.
426	5.100	**In light of the discussion about consistency with provisions elsewhere in the CLWRP, should clause (b) read "… not practicable, adverse effects are remedied or mitigated."?** *Response – AF* Yes. It is our view that clause (b) of Policy 8.4.19 should read "… not practicable, adverse effects are remedied or mitigated.", consistent with the discussion set out in paragraph 5.100, page 426 of the s42A report. This is shown in Update #2 as follows: "adverse effects on Ngāi Tahu values, including those associated with unnatural mixing of water, are avoided as a first priority, and only where avoidance is not ~~far as~~ practicable, adverse effects are remedied or mitigated ~~minimised~~[8]; and"

[8] WIL PC7-349.1, S & J Tallott PC7-405.4, Claxby Irrigation Ltd PC7-433.2, Waimakariri NGF PC7-425.6

		Red text = s42A Report Appendix E Part 1 Blue text = Update #2
427	5.103	**Is it the law that RMA s6(c) is absolute on its own in all circumstances, irrespective of other listed matters of national importance that may be applicable and have also to be recognised and provided for?** *Response – PM/IE* No. Case law suggests that while section 6(c) is worded in more absolute terms than other matters of national importance in section 6, it does not provide a veto. All matters of national importance should be weighed in each particular circumstance. In the context of a resource consent, *Royal Forest and Bird Protection Society of New Zealand Inc v Manawatu-Wanganui Regional Council* [1996] NZRMA 241, the Environment Court considered that section 6(c) "is not an end or objective on its own but is ancillary to the principal purpose of the Act; that the achievement which is to be promoted is sustainable management of natural and physical resources, and that matters declared to be of national importance, national value and benefit must play their part in the overall consideration and decision, but it is not the intention of the Act to put absolute preservation of the natural character of a particular environment at the forefront and at the expense of everything except where it is necessary or essential to depart from it." Examples of the matters of national importance being weighed can also be found in *Crater Lakes Park Ltd v Rotorua District Council* EnvC Auckland A126/09, 2 December 2009, and *Te Runanga o Ngai Te Rangi Iwi Trust v Bay of Plenty Regional Council* [2011] NZEnvC 402. The difference in wording of some of the matters of national importance was discussed by the Supreme Court in Environmental Defence Society Inc v New Zealand King Salmon Company Ltd [2014] NZSC 38. In that case, the Supreme Court stated: "Section 6 does not, we agree, give primacy to preservation or protection; it simply means that provision must be made for preservation and protection as part of the concept of sustainable management. The fact that ss 6(a) and (b) do not give primacy to preservation or protection within the concept of sustainable management does not mean, however, that a particular planning document may not give primacy to preservation or protection in particular circumstances." This suggests that the use of the word "protection" in section 6(c) does not give that matter priority over the other matters, even if they are worded as "preservation".

		More recently, the Environment Court (in a case concerning a policy in the proposed Otago Regional Policy Statement which provided for offsets) accepted that section 6(c) is worded in more "absolute terms" than sections 6(a) and (b), as it is not qualified by "inappropriate subdivision, development and use" (*Oceana Gold (New Zealand) Ltd v Otago Regional Council* [2019] NZEnvC 41, at [71]). The Court continued to weigh the matters of national importance, and the purpose in section 5. The Court ultimately considered that: (at [187]) "...while we accept the equal importance of enabling development and use of non-renewable resources, we hold that a policy which provides for adverse effects on significant indigenous vegetation and significant habitat of indigenous fauna to be offset or compensated for is not consistent with a requirement to protect those values or, more fundamentally, to safeguard the life-supporting capacity of the ecosystems of which they are part." While this decision was appealed to the High Court, the appeal was unsuccessful on most grounds, so we consider the reasoning of the Environment Court in this respect stands.
429	5.112	**It is recommended that Rule 8.5.18 is amended to be consistent with amendments to Rule 5.191. What are the words in Rule 8.5.18 in the revised edition of Appx E Pt 1 that would have that effect?** *Response – AF* The words in Rule 8.5.18 that have the effect of being consistent with amendments to Rule 5.191 are highlighted in grey below: **8.5.18 The taking and use of groundwater or surface water for targeted stream augmentation or the use of groundwater or surface water associated with a lawfully established groundwater or surface water take, and the subsequent discharge of that water into a surface water body is a restricted discretionary activity provided the following conditions are met:**
465	7.32	**Is the passage in the Env Ct decision referred to in this paragraph among the points in that decision alleged to be erroneous in law in the pending appeal to the High Court?** *Response – PM/IE* No, this paragraph is not expressly challenged in the Notice of Appeal. However, the whole decision of the Environment Court is subject to the appeal. The High Court may make further statements regarding the principles set out in these paragraphs, and as such there could be higher court authority on these matters in the future.

<table>
<tr><td></td><td></td><td></td></tr>
<tr><td>467</td><td>7.36</td><td>Can the results of this project be disseminated to the Panel as soon as they are available please?

Response – MW/AK

A summary of the results is set out below:

<table>
<tr><th>Groundwater Allocation Zone</th><th>Operative Plan Limit</th><th>Allocated</th><th>% of Limit Allocated</th><th>Available</th><th>Units</th></tr>
<tr><td>Ashley</td><td>29,400,000</td><td>15,709,195</td><td>53</td><td>13,690,805</td><td>m^3/year</td></tr>
<tr><td>Cust</td><td>56,300,000</td><td>16,925,675</td><td>30</td><td>39,374,325</td><td>m^3/year</td></tr>
<tr><td>Eyre</td><td>99,070,000</td><td>103,841,762</td><td>108</td><td>-7,771,762</td><td>m^3/year</td></tr>
<tr><td>Kowai</td><td>17,400,000</td><td>8,544,999</td><td>49</td><td>8,855,001</td><td>m^3/year</td></tr>
<tr><td>Loburn</td><td>40,800,000</td><td>107,613</td><td>0</td><td>40,692,387</td><td>m^3/year</td></tr>
</table>
</td></tr>
<tr><td>468</td><td>7.47-7.49</td><td>Para 7.47 refers to Table 6 which, in the revised edition of Appendix E, Pt 1, is on page 59. Para 7.48 refers to Table 8-6 which, in that version of Appendix E Pt 1, is on page 97. However the reference in the first sentence of para 7.48 to the Kowai GAZ indicates an intention to refer to Table 6 (page 59), which does not refer to Kowai GAZ, nor to Table 8- 6 (page 97) which does not refer to Kowai, or to groundwater, but to lakes. Please would you clarify this.

Response – AF

Paragraphs 7.47 – 7.50 on page 468 relate to the Kowai Groundwater Allocation Zone included in Section 7, Table 6 of the LWRP.</td></tr>
<tr><td>482</td><td>8.75</td><td>Can you please describe the testing and reporting programme and how it will define a ‘representative area’?

Response – AK

It is anticipated that a representative area will be identified as part of the Waimakariri District Council programme for testing and reporting of water quality in private drinking water supply wells. It is our understanding that Waimakariri DC has not yet developed this programme. A pilot project was undertaken last year and it is anticipated that it will be extended to include two additional Private Water Supply Areas. Environment Canterbury and Waimakariri DC will need to agree on zones that will be identified in the monitoring/sampling programme. The development of the programme will start after the second pilot project.</td></tr>
<tr><td>504</td><td>8.196</td><td>Can you please explain the rationale for deleting Policy 8.4.25(a)?</td></tr>
</table>

		Response – AF The rationale for deleting Policy 8.4.25(a) is to improve the wording of the policy so that it does not simply state what the rule framework is. The notified version of the policy does not provide additional guidance to decision-makers with respect to resource consents sought under the relevant rule, and therefore Policy 8.4.25(a) considered to be superfluous.
506	8.213	**Is amended Policy 8.4.27(b) necessary as presumably it must have occurred for (a) to have been achieved (the enduring N loss rate reduction below Baseline GMP Loss Rate)?** *Response – AF* Yes, Policy 8.4.27(b) is still necessary. The intent of Policy 8.4.27 is to provide an extension of time to achieve the nitrogen loss reductions to farmers that implemented mitigations that are better than GMP during the nitrogen baseline period. Landowners that implemented mitigations during this period could have a significantly lower starting point for nitrogen loss reductions compared to other properties of a similar land use type that were not operating at GMP (or better) during the nitrogen baseline period. The rationale for this policy direction is to recognise the early action (and associated costs) made by these landowners to improve farm practices.
514	8.267	**Table 8-9 states that the N loss reductions apply to farming enterprises. Would it be an improvement if Rule 8.5.27 clearly stated that?** *Response – AF* Rule 8.5.27 applies to the use of land for a farming activity as part of a farming enterprise. Condition 1 of Rule 8.5.27 requires that a Farm Environment Plan has been prepared in accordance with Part A Schedule 7, and is submitted with the application for resource consent. Schedule 7 requires that properties in the Waimakariri sub-region includes objectives and targets related to the staged reductions in N loss for properties in the NPA. Any consent application submitted without an FEP, or if the FEP does not include the required information (including targets showing further reductions in the nitrogen losses) would not meet the conditions of the rule and would become a non-complying activity. Therefore, condition (1) of Rule 8.5.27 does require farming enterprises to adhere to N loss reductions set out in Table 8-9. Should the Hearing Panel

		consider a more explicit reference to the N loss reductions is necessary, then for consistency, similar amendments would also need to be made to Rule 8.5.26.
516	8.282	**Is the recommended amendment to Policy 8.4.29(a) sufficient to address WDC's concerns or should Rule 8.5.30 be similarly amended?** *Response – AF* It could be useful to have a similar amendment to Rule 8.5.30, however the rule uses the same wording as regionwide Rule 5.62. I understand these rules only apply to discharges associated with farming land use activities and Rule 5.62 has been interpreted that way by Environment Canterbury staff administering the plan. Should the Panel consider an amendment to Rule 8.5.30 is necessary, then a similar amendment may be required to Rule 5.62, as these rules apply to the same activities.
519	8.300	**Where in the Report is this Table 8-9 2050 option further described and discussed?** *Response – AF* At paragraph 8.126 on page 491.
520	8.304	**Does Policy 8.4.29 means that the starting point for WIL implementing Table 8-9 reductions would be the aggregated GMP Loss Rate (the most recent 4 year period operating at GMP) across its constituent farms?** *Response – AF* Yes. **Is the intention to apply the Table 8-9 reductions upon a s128 review of the existing WIL consent or upon expiry of that consent?** *Response – AF* The Table 8-9 reductions would apply to the GMP Loss Rate that applied at time of either a consent review or a consent application made upon expiry of CRC184861. Environment Canterbury has not described any intention to review existing farming land use or discharge consents. **Would the GMP Loss Rate apply to the most recent 4 year period that preceded either the s128 review or consent expiry date?** *Response – AF*

		Yes.
531	8.366	**Is the recommendation of replacing 'not achievable' with 'impracticable' intended to extend the circumstances in which activities are not obliged to avoid discharges of contaminants?** *Response – AF* The recommendation of replacing "not achievable" with "impracticable" is not intended to extend the circumstances in which the activities are not obliged to avoid discharges of contaminants. As "impractical" is likely to extend the circumstances, we recommend further amendments to Policy 8.4.28A, shown in Update #2 as follows: For all activities within the Ashley Estuary (Te Aka Aka) and Coastal Protection Zone, discharges of contaminants to surface water or onto or into land in circumstances where contaminants may enter surface water are avoided as a first priority, and only where avoidance is ~~impracticable if this is~~ not achievable[9], the best practicable option is used to minimise the loss or discharge of contaminants so as to achieve: Red text = s42A Report Appendix E Part 1 Blue text = Update #2
543	8.435	**Where is the passage in 'Part 1, Section 7 of this report' where the application of Target 2 to certain classes of properties is discussed?** *Response – AF* Paragraph 8.435, page 543 of the s42A report should refer to "Part 2, Section 5" of this report, instead of "Part 1, Section 7".
545	9.6	**Regarding the recommendation, Policy 8.4.33 is recommended to be deleted in paragraph 9.7?** *Response – AF* Yes. As described on page 545 at paragraph 9.7, it is recommended that Policy 8.4.33 be deleted, and any differences between Policy 8.4.33 and regionwide policy 4.92A are included in Policy 8.4.32. The text shown in red are recommended amendments to Policy 8.4.22 (as shown in Appendix E), in

[9] HortNZ PC7-356, page 2

		response to DairyNZ's request to include other targeted activities to improve water quality to Policy 8.4.33: "8.4.32 Enable activities that maintain, restore or enhance water quality…"
545	9.7	**Should weed and pest control also be included in amended Policy 8.4.32?** *Response – AF* Policy 8.4.32 seeks to enable activities that provide for the outcomes listed in the policy. "Weed and pest control" are examples of these types of activities. As the policy does not specifically list the types of activities anticipated, I do not consider it appropriate to include "weed and pest control" in amended Policy 8.4.32.
588	9.59	**Is there a typo in the second sentence: "… the v has been substantially amended…** *Response – PM/IE* Yes, that sentence should read, "Since that time, the NPS-FM has been substantially amended..."
621	6.16	**Does this mean that OWL has essentially sold too many shares, thereby selling more water than it has available?** *Response – DC* As the council does not have control over the number of shares able to be sold by OWL, we would suggest the Hearing Commissioners enquire of OWL the extent of shareholdings, and how this compares in terms of the water availability and reliability of supply. Regardless of whether shares have been oversold, the experience of the 2014 to 2016 irrigation seasons, and modelling, has shown that OWL have been unable to supply full reliability water for all shareholders and meet environmental flow requirements in some years. This is confirmed by the issuing of several water shortage directions, meaning the available water at those time was not be sufficient to meet environmental flow requirements, and reliability expectations of shareholders. Modelling undertaken by Aqualinc (2008) concluded that the inflow to Opuha Dam were insufficient to meet reliability expectations, and that increasing the storage capacity would not resolve the reliability shortfall.

		Aqualinc Research Limited. (2008). Canterbury Strategic Water Study (stage II). Prepared for Environment Canterbury, Christchurch.
631	6.55	**Is the requirement for a main stem minimum flow retained in amended PC7 for tributary abstractors?** **If yes, why?** *Response – DC* Yes, this requirement is retained. The retention of main stem minimum flows alongside the tributary minimum flows was sought by OWL and their shareholders. The mainstem minimum flow requirements maintains priority for abstractors who are OWL shareholders in the tributaries, over abstractors who are not shareholders. In lieu of retaining the mainstem minimum flow, a single minimum flow for each tributary could be set to provide for the both the tributary and mainstem values downstream. Such a regime may have implications on the operation of OWL, and their shareholding arrangements.
		Which table in Appendix E Part 1 contains the 'kakaku allocation block?' referred to in Rule 14.5.12 conditions 2, 3 and 5? *Response – DC* The Kakahu Irrigation Scheme abstracts water from the Opuha River below the dam, but upstream of the confluence with the Opihi River. Table 14(ua) sets an allocation block of 5,600 L/s for the Opuha River and Opihi Mainstem. Given the location of the Kakahu scheme take, it is not specified as an individual allocation block, but is included in the 5,600 L/s block in Table 14(ua).
		Where in the s42A Report are the recommended deletions from Table 14(h) discussed? • **Deletion of text '(restrictions 1000)' for takes from the Ohapi Creek), and** • **Deletion of text '(no partial restrictions)' for takes from the Rhodes Creek).** **Which submission points have been relied on to support the deletions?** *Response – MMC* The two identified deletions are not specifically discussed. We have relied on the general discussion regarding the appropriateness of flow regimes that allow

		the minimum flows to be breached through large allocation blocks and inadequate or no restriction regimes. These issues are discussed at 2.14 to 2.16 on pages 28-29 and paras 5.5 and 5.6 on pages 267-268 of the Section 42A Report. Given the location of the flow recorder sites, below most takes, we acknowledge that this is less of an issue for these rivers. There are no specific submissions that request these deletions, so the submissions of AA have been relied upon for scope for these deletions. However, upon reflection, it is noted that PC7 contains no meaningful change to the provisions in relation to Ohapi Creek and Rhodes Creek. On this basis, no change is appropriate, and the recommended deletions are withdrawn in Update #2 of Appendix 1.
		In Schedule 7, Part 11 (OTOP) should the 'Note' immediately below Section 11 (Orari-Temuka-Opihi-Pareora Additional requirements) refer to Rule 14.5.17? *Response MMC/DK* Yes. It is now included in Update #2 as: *Note: Management Area 5A: Nutrients, Objective 2, Target 1 does not apply to properties that comply with the irrigation and winter grazing thresholds in Rule 14.5.17.* Red text = s42A Report Appendix E Part 1 Blue text = Update #2
		Question X1 (received 16 June 2020) **In PC7 as notified, proposed Rule 8.5.6 (Waimakariri) and proposed Rule 14.5.1 (OTOP) were similar and corresponding. By its original submission 430, Federated Farmers asked for both rules to be deleted (see pp 33 and 58 respectively of that submission). By the S 42A Report, the reporting officers recommended a minor amendment to Rule 8.5.6; and wholly omitting Rule 14.5.1. Is there a principled basis for the differing recommendations on two similar submissions on two similar proposed rules in different parts of the LWRP? Is it addressed in the S 42A Report?** *Response AF/MMC/DK* Within the Waimakariri sub-region, Table 8-3 provides flow and allocation limits for the take and use of water for mahinga kai purposes from the Ashley River, Cam River and Silverstream.

		Within the OTOP sub-region, there is no provision for specific mahinga kai flow or allocation limits, with Rule 14.5.1 requiring that any take for the purposes of mahinga kai enhancement be from the Temuka FMU only. The Temuka FMU is currently over-allocated, and those allocations are very large. In both sub-regions, there are submissions in support, submissions seeking deletion of the rules in their entirety, and submissions seeking amendments to the rule wording and conditions. The principal reason for the difference in recommendations is in the allocation status and ecological implications of an increase in allocation. For the Temuka River, additional allocation would likely mean a worsening of the existing situation[10], while for the Waimakariri rivers in question, the capacity for a further allocation is considered to exist. The reasoning for the recommended deletion of Rule 14.5.1 is at paras 4.42-4.44 on page 256.
		Question X2 (received 16 June 2020) **On proposed Rule 14.5.16, Federated Farmers submission requests an amendment to criterion 1 inserting reference to the Baseline GMP Loss Rate. The S 42A Report at paras 12.71 and 12.74 does not offer a recommendation on this submission point directly, but refers to "discussion in the Waimakariri section" without any particular reference or citation, Having spent half an hour searching the Waimakariri section in vain for any reference to this submission point, may I have a more focused indication of where I can find the reference to it?** *Response: LM/MMC* Rules 8.5.23A to 8.5.23C are discussed in Part 5, Section 8 of the report, pages 511 and 512. Within this section, there is no specific mention of the Federated Farmers submission. The Waimakariri section also refers back to Part 2, Section 3 of the report, although there is no discussion here on the Equivalent Pathway rules at the sub-regional levels, outside page 34, paragraph 3/34 which states that "*We do not recommend any changes to the proposed nutrient management provisions of PC7*", citing the potential for inconsistencies with the region-wide section of the LWRP. We apologise that this point was not addressed in Part 4 of the Report as it initially stated. The wording for the Waimakariri and OTOP equivalent pathway rules as notified (8.5.23A and 14.5.16) echoes that of the region-wide provisions (5.42A), with the

[10] Noting the submission point from Arowhenua Rūnanga to the effect that they would 'leave the water in the river'.

		same condition (1) restriction requiring that the nitrogen loss calculation in the relevant area does not exceed the nitrogen baseline. Upon further consideration of this submission point we agree with the change sought by Federated Farmers and recommend its inclusion in condition 1 of Rule 14.5.16. This change is included in Update #2 and below: 1. The nitrogen loss calculation for any part of the property within the Orari-Temuka-Opihi-Pareora sub-region does not exceed the nitrogen baseline and from 1 July 2020 the Baseline GMP Loss Rate; and Blue text = Update #2

Additional Clarifications:
On page 377, Footnote 1673 should refer to PC7-472.164 – Forest and Bird, rather than PC7-65 – Forest and Bird.

Danielle Korevaar is the author and co-author of several responses to the Questions of Hearing Commissioners. She was not an author on any parts of the s42A report. Her experience and qualifications are set out below.

Danielle Korevaar
I am a Resource Management Planner employed by Incite. I hold a Bachelor of Science (Geography and Economics) from the University of Canterbury and have completed the Intermediate and Advanced Sustainable Nutrient Management (Overseer) courses. I am an associate member of the New Zealand Planning Institute.

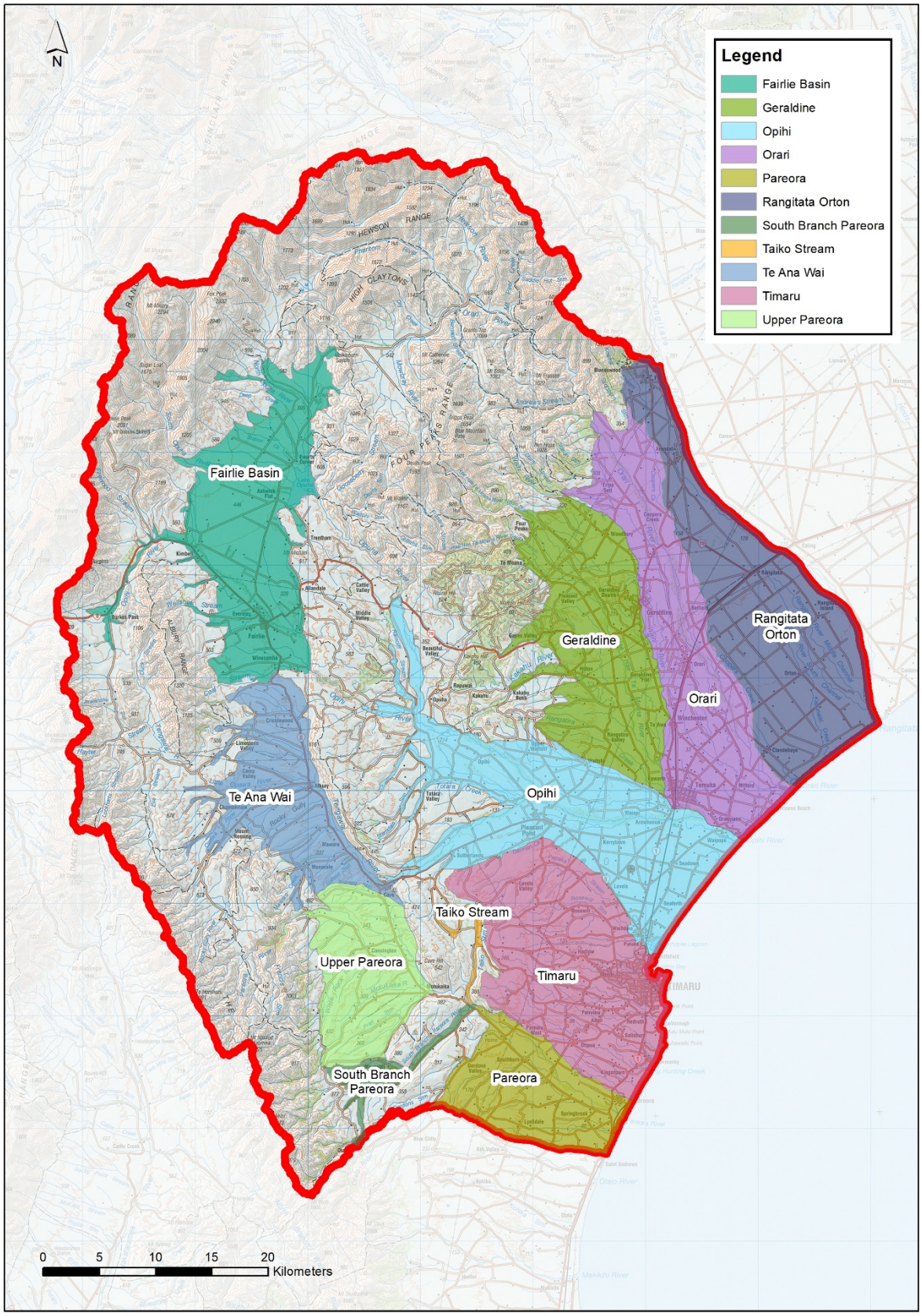
I have over four years of resource management and planning experience, largely in the public sector. During this time, I have gained experience in many areas in including processing a range of regional council consents, presenting as a s42A reporting officer at consent hearings, and assisting in the development of regional plans.

Attachments:

Attachment 1: Map of the Groundwater Provinces in the OTOP sub-region
Reference page 246, paragraph 3.60

Attachment 2: OTOP sub-region minimum flows, showing ecological flows, notified and recommended minimum flow regimes
Reference page 327, paragraph 10.26

Attachment 1: Map of the Groundwater Provinces in the OTOP sub-region



Attachment 2: OTOP sub-region minimum flows, showing ecological flows, notified and recommended minimum flow regimes

Notes:

- The table has been presented in approximate north to south order of the rivers, so the ordering in this table does not necessarily reflect the ordering of the tables in Section 14. For clarity, all table number references have been included for both the notified and recommended provisions.
- All ecological and minimum flow values are in litres per second, unless otherwise stated.
- Reduction regimes and pro-rata restrictions have not been included.
- Where minimum flows are the same across the notified and recommended provisions for a given time period, the cells of the table have been merged.
- Where there is monthly variation in minimum flows in PC7, the ordering of those months in this table does not necessarily reflect the ordering in the tables in PC7, but the dates and flows are unchanged.

Not. = Provisions from the notified PC7, notified on 20 July 2019
Rec. = Provisions from the s42A report – Appendix E Part 1, officer recommendations, dated March 2020
'-' = no provisions in the relevant PC7 version

FMU, River and Recorder Site	Ecological flow	Permit type	Table No		Minimum flow provisions											
					Current		1 Jan 2022		1 Jan 2025		1 Jan 2030		1 Jan 2035		1 Jan 2040	
			Not.	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*
Orari Freshwater Management Unit																
Orari River																
Upstream Ohapi	900 – 1,350[1]	A	14(h)		500		-	-	-	-	-	-	-	-	900	
Upstream Ohapi	Not assessed	B	14(h)		3800		-	-	-	-	-	-	-	-	-	-
Ohapi Creek																
Ohapi Creek at Brown Road	90% of naturalised summertime and wintertime MALF[1,2].	A	14(h)		Oct-Jan 570 Feb-Sep 730		-	-	-	-	-	-	-	-	Oct-Jan 570 Feb-Sep 730	
Rhodes Creek																
Rhodes Stream at Parke Road	70-90% of naturalised MALF[1,2].	A	14(h)		60		-	-	-	-	-	-	-	-	60	
Coopers Creek																
Coopers Creek at SH72	50[3]	A	14(h)		50		-	-	-	-	-	-	-	-	50	
Temuka Freshwater Management Unit																
Temuka River																
Manse Bridge	1,000 was the flow at which adequate habitat would start to be provided for some species,	A	14(i), 14(l)	14(i)	Oct-Mar 700 Apr-Sep 1000	Nov-Mar 850 Apr-Sep 1500 Oct 1200	-	-	Nov-Mar 850 Apr-Sep 1500 Oct 1200	-	-	Nov-Feb 1050 Mar 1200 Apr-Sep 1500 Oct 1200	Nov-Feb 1050 Mar 1200 Apr-Sep 1500 Oct 1200	-	-	-

[1] Golder Associates 2013: Orari River Catchment: ecological values and flow requirements. Report No. 0978110107_001_R_RevB prepared for Environment Canterbury
[2] The record of flow data was too short to derive a MALF at the time the ecological recommendations were made. We may be able to derive a MALF using more recent data, but this would take some time to prepare, although acknowledge that the flow regimes were not changed by PC7.
[3] Golder Associates 2013: Coopers Creek ecological values and flow requirements. Report No. 0978110107_002_R_Rev0 prepared for Environment Canterbury

FMU, River and Recorder Site		Ecological flow	Permit type	Table No		Minimum flow provisions											
						Current		1 Jan 2022		1 Jan 2025		1 Jan 2030		1 Jan 2035		1 Jan 2040	
				Not.	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*
		and flows up to naturalised MALF provided incrementally more habitat for desirable values.[4] MALF is 1795[5].															
	Manse Bridge	Not assessed	B	14(j), 14(l)	14(i)	Oct-Mar 1600 Apr-Sep 1900	Nov-Mar 3200 Apr-Aug 3850 Sep-Oct 3550	-	-	Nov-Mar 1750 Apr 2100 May-Aug 2400 Sep 2100 Oct 1900	-	-	Nov-Feb 2650 Mar 2800 Apr-Sep 3100 Oct 2800	Nov-Feb 2650 Mar 2800 Apr-Sep 3100 Oct 2800	-	-	-
	Manse Bridge[6]	Not assessed	C	14(k)	-	6084	-	-	-	-	-	-	-	-	-	-	-
Opihi Freshwater Management Unit																	
Station Creek																	
	Station Creek Gorge	Not assessed	AA, AN, BA	14(m)		As per existing resource consent conditions		-	-	As per existing resource consent conditions		-	-	-	-	-	-
Deep Creek																	
	Opihi River SH1	Not assessed	AA, AN, BA	14(m)		2600		-	-	2600		-	-	-	-	-	-
North Opuha																	
	Clayton Road Bridge	815 (summer) 900 (winter)[7]	AA, AN, BA	14(m)		1 Oct-14 Apr 850 15 Apr-30 Sep 1000		-	-	1 Oct-14 Apr 815 15 Apr-30 Sep 900		-	-	-	-	-	-
	Clayton Road Bridge [6],**Error! Bookmark not defined.**	2,300[8]	BN	14(y)		-	2300	2300	-	-	-	-	-	-	-	-	-
South Opuha																	
	Monument Bridge	520-600 (summertime) assessed as supporting ecological values[7]	BA	14(n), 14(o)	14(n)	1 Sep-30 Apr 500 1 May-31 Aug 800		-	-	1 Sep-30 Sep 1000 1 Oct-14 Oct 900 15 Oct-30 Nov 800 Dec 550 Jan-Feb 520 1 Mar-14 Mar 550	1 Sep-30 Sep 1000 1 Oct-14 Oct 900 15 Oct-30 Nov 800 1 Dec-31 Mar 600 1 Apr-14 Apr 800	1 Sep-30 Sep 1000 1 Oct-14 Oct 900 15 Oct-30 Nov 800 1 Dec-31 Mar 600 1 Apr-14 Apr 800	-	-	-	-	-

[4] Jellyman P. 2018: Opihi catchment ecological flow assessment. NIWA client report No. 2018158CH prepared for Environment Canterbury.
[5] Dodson and Steel 2018: Current state of surface water hydrology in the greater Opihi catchment.
[6] Just listed as the minimum flow, not marked as current or from a future date.
[7] Hayward 2019: Surface water quality and aquatic ecology technical report to support the Orari-Temuka-Opihi-Pareora limit-setting process. Appendix 1, Memo 17 Section: A Block regimes.
[8] Hayward 2019: Surface water quality and aquatic ecology technical report to support the Orari-Temuka-Opihi-Pareora limit-setting process. Appendix 1, Memo 17 Section: B Block Regimes.

FMU, River and Recorder Site	Ecological flow	Permit type	Table No		Minimum flow provisions											
					Current		1 Jan 2022		1 Jan 2025		1 Jan 2030		1 Jan 2035		1 Jan 2040	
			Not.	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*
									15 Mar-31 Mar 600 1 Apr-14 Apr 800 15 Apr-30 Apr 1000 May-Aug 1200	15 Apr-30 Apr 1000 May-Aug 1200	15 Apr-30 Apr 1000 May-Aug 1200					
Monument Bridge [6],**Error! Bookmark not defined.**	3,000[8]	BN	14(y)		-	3000	3000	-	-	-	-	-	-	-	-	-
Opuha																
Skipton Bridge Full Availability, Level 1 and Level 2[9]	1,500 to 2,200 provides adequate habitat for most desirable species[4]	AA, BA	14(v), 14(w)		-	1500	-	-	1500		-	-	-	-	-	-
Upper Opihi																
Rockwood	1,000 provides adequate habitat for most native species except large eels[7]	AN, BA	14(p), 14(q)	14(p)	Nov-Mar 790 Apr-Oct 1280	Nov 950 Dec-Feb 850 Mar 950 Apr-Sep 1500 Oct 1400	-	-	Nov 950 Dec-Feb 850 Mar 900 Apr-Sep 1500 Oct 1400	Nov-Mar 1000 Apr-Sep 1500 Oct 1400	Nov-Mar 1000 Apr-Sep 1500 Oct 1400	-	-	-	-	-
Rockwood[6]	4,500[8]	BN	14(y)		-	4500	4500	-	-	-	-	-	-	-	-	-
Opihi River SH1[6]	12,000-15,000[8]	BN	14(y)		-	12000	12000	-	-	-	-	-	-	-	-	-
Opihi Mainstem																
Saleyards Bridge[10]																
Full (not. plan) Level 1 (rec. plan)	Ecological flow study completed after plan notification[11]	AA, BA	14(v), 14(w)		-	Jan-Feb 3500 Mar 7500 Apr 8000 May 4500 Jun-Jul 4000 Aug 4500 Sep 6000 Oct 8500 Nov 7000 Dec 6000	-	-	Jan-Feb 3500 Mar 7500 Apr 8000 May 4500 Jun-Jul 4000 Aug 4500 Sep 6000 Oct 8500 Nov 7000 Dec 6000	Jan-Feb 3800 Mar 7800 Apr 9000 May 5300 Jun-Jul 4800 Aug 5200 Sep 6600 Oct 9400 Nov 7300 Dec 6300	Jan-Feb 3800 Mar 7800 Apr 9000 May 5300 Jun-Jul 4800 Aug 5200 Sep 6600 Oct 9400 Nov 7300 Dec 6300	-	-	-	-	-
Level 1 (not. plan)		AA, BA	14(v), 14(w)		-	Jan-Feb 3400 Mar 6400 Apr 8000	-	-	Jan-Feb 3400 Mar 6400 Apr 8000	Jan-Feb 3400 Mar 6400 Apr 8000	Jan-Feb 3400 Mar 6400 Apr 8000	-	-	-	-	-

[9] In the recommended provisions, the full availability part falls away, and the management regime consists only of levels 1 and 2.

[10] The nature of this minimum flow regime differs between the notified and recommended plans. In the notified version, levels 1 and 2 reflect an alternative management regime to the full availability flows. The alternative management regime is linked to the thresholds provided in Table 14(x). In the recommended version, the regime comprises level 1 (notified full availability) and level 2 (notified level 1), with no alternative management regime. Levels 1 and 2 are still linked to the thresholds provided in Table 14(x). The Table 14(x) thresholds have not been included in this table.

[11] Jellyman P. 2019: Lower Opihi River ecological flow assessment. NIWA client report No. 2019231CH prepared for Environment Canterbury.

FMU, River and Recorder Site	Ecological flow	Permit type	Table No		Minimum flow provisions											
					Current		1 Jan 2022		1 Jan 2025		1 Jan 2030		1 Jan 2035		1 Jan 2040	
			Not.	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*
Level 2 (rec. plan)						May 4500 Jun-Jul 4000 Aug 4500 Sep 5300 Oct 7200 Nov 6100 Dec 5300			May 4500 Jun-Jul 4000 Aug 4500 Sep 5300 Oct 7200 Nov 6100 Dec 5300	May 4500 Jun-Jul 4000 Aug 4500 Sep 5300 Oct 7200 Nov 6100 Dec 5300	May 4500 Jun-Jul 4000 Aug 4500 Sep 5300 Oct 7200 Nov 6100 Dec 5300					
Level 2 (not. plan)		AA, BA	14(v), 14(w)	-	-	-	-	-	Jan-Feb 3400 Mar 5400 Apr 5600 May 3900 Jun-Jul 3600 Aug 3900 Sep 4600 Oct 5900 Nov 5100 Dec 4600	-	Jan-Feb 3400 Mar 5400 Apr 5600 May 3900 Jun-Jul 3600 Aug 3900 Sep 4600 Oct 5900 Nov 5100 Dec 4600	-	-	-	-	-
Opihi River SH1		AN	14(u)		2500	2600	2600	-	-	-	-	-	-	-	-	-
Opihi River SH1[6]	12,000 – 15,00[8]	BN	14(y)		-	12000	12000	-	-	-	-	-	-	-	-	-
Te Ana Wai																
Cave	450 – 550 assessed as provided adequate summertime habitat for native fish and juvenile trout[7]	AA, AN, BA	14(r), 14(s)	14(r)	Oct-Apr 400 May-Aug 600 Sep 500	-	-	-	Oct 700 1 Nov-14 Nov 550 15 Nov-31 Nov 500 1 Dec-14 Mar 450 15 Mar-31 Mar 550 Apr 700 May-Jul 1200 Aug 1100 Sep 900		Oct 700 1 Nov-14 Nov 550 15 Nov-31 Nov 500 1 Dec-14 Mar 450 15 Mar-31 Mar 550 Apr 700 May-Jul 1200 Aug 1100 Sep 900	-	-	-	-	-
Cave[6]	2,500[8]	BN	14(y)		-	2500	2500	-	-	-	-	-	-	-	-	-
Opihi River SH1[6]	12,000-15,000[8]	BN	14(y)		-	12000	12000	-	-	-	-	-	-	-	-	-
Milford Lagoon / Clandeboye Drainage Area																
Burkes Creek	No ecological assessment for PC7	A	14(t)		160		160		-	-	-	-	-	-	-	-
Timaru Freshwater Management Unit																
Levels and Seadown Plains																
Seadown Main Drain at Aorangi Road	No ecological assessment for PC7	AN	14(z)		150		150		-	-	-	-	-	-	-	-
Pareora Freshwater Management Unit																
Pareora River, including all tributaries																

FMU, River and Recorder Site	Ecological flow	Permit type	Table No		Minimum flow provisions											
					Current		1 Jan 2022		1 Jan 2025		1 Jan 2030		1 Jan 2035		1 Jan 2040	
			Not.	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*	*Not.*	*Rec.*
The Huts flow recorder[6]	660[12]															
Take when TDC is discharging		A	14(za)		Oct-Nov 440 Dec-Sep 400		-	-	-	-	-	-	-	-	-	-
Take when TDC is not discharging		A	14(za)		400		-	-	-	-	-	-	-	-	-	-
Take to storage	>1,500 assessed as not adversely affecting habitat and water temperature[13]	A	14(za)		1600		-	-	-	-	-	-	-	-	-	-
Take	5,000[13]	B	14(za)		5000		-	-	-	-	-	-	-	-	-	-

[12] Golder Associates, 2008: Pareora River aquatic ecology and minimum flow requirements. Report prepared for Environment Canterbury by Golder Associates.
[13] Golder Associates, 2011: Methods and effects assessment: Pareora River environmental flow review. Report prepared for Environment Canterbury by Golder Associates.