

In the matter of **THE RESOURCE MANAGEMENT ACT 1991**

And in the matter of **AN APPLICATION FOR A WATER CONSERVATION  
ORDER IN THE HURUNUI CATCHMENT PURSUANT TO  
SECTION 201 OF THE ACT**

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**STATEMENT OF EVIDENCE OF LYNDA MARION WEASTELL MURCHISON**

**Dated 23<sup>RD</sup> March 2009**

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## **1. Introduction**

- 1.1 My name is Lynda Marion Weastell Murchison. I am employed as the Planning Manager (Air and Rivers) for the Canterbury Regional Council (Environment Canterbury).
- 1.2 I have been asked to provide planning evidence on behalf of Environment Canterbury in relation to an application for a Water Conservation Order (WCO) for the Hurunui Catchment by The New Zealand Fish and Game Council and the North Canterbury Fish and Game Council and the New Zealand Recreational Canoeing Association.

## **2. Background and qualifications**

- 2.1 I hold a Master of Arts degree (First Class Hons) in Geography and post-graduate Certificates of Proficiency in Natural Resource Law and Advanced Regional and Resource Planning. I am a full member of the New Zealand Planning Institute. I am currently completing my final papers for a National Certificate in Agriculture (Level 3).
- 2.2 I have worked in resource management planning for over 14 years, including as a Senior Planner and the District Planner for Selwyn District Council and on contract as a Senior Policy Planner for Hurunui District Council from 2005, when we moved to the District, until taking up my current position in October 2008.
- 2.3 I reside in the Hurunui District, where I farm a dry land sheep and beef property in partnership with my husband, in the Weka Pass. My husband and I are not shareholders in Hurunui Irrigation Ltd and have not had any involvement in any irrigation proposals.
- 2.4 I have read the Environment Court Code of Conduct for Expert Witnesses (2006) and shall abide by it.

### **3. Scope of Evidence**

- 3.1 Many of the issues before the Special Tribunal in relation to this application, are also before Environment Canterbury in submissions on Variations 1 and 8 to the proposed Natural Resources Regional Plan (NRRP). As Environment Canterbury has not made decisions on those submissions, I understand the Council believes it would be inappropriate to have a position supporting or opposing the WCO application on its merits; least this be construed as having predetermined its own decision-making on similar matters relating to the proposed NRRP.
- 3.2 However, Environment Canterbury does wish to inform the Special Tribunal of the public planning process it has undertaken to date within the Hurunui Catchment, and to raise the question as to whether a WCO application is necessary or appropriate within that context. Therefore, my evidence addresses the following matters:
- (a) The relevant regional planning documents which must be had regard to in considering a WCO application under section 207(c) of the Resource Management Act ("RMA").
  - (b) Those parts of the WCO application and any additional preferences requested in submissions, which overlap with and are contrary to those regional planning documents.

### **4. Relevant Planning Documents**

- 4.1 Section 207 of the RMA outlines matters which a special tribunal shall have regard to in considering an application for a WCO. They include:

*"(c) the relevant provisions of every national policy statement, New Zealand coastal policy statement, regional policy statement, regional plan, district plan and any proposed plan."*

- 4.2 In relation to this application for the Hurunui Catchment, the relevant planning documents to have regard to under section 207(c) are:

- The Canterbury Regional Policy Statement;
- The Transitional Regional Plan for Canterbury;

- The proposed Natural Resources Regional Plan (NRRP) Variations 1 and 8;  
and
  - The Hurunui District Plan.
- 4.3 My evidence does not address the New Zealand Coastal Policy Statement and the Canterbury Regional Coastal Plan as I do not believe they are relevant to this application. I do not believe there are any other relevant national policy statements.
- 4.4 My evidence does not discuss the Hurunui District Plan. I anticipate the Special Tribunal will hear evidence from both the applicants and the Hurunui District Council on that matter.
- 4.5 In discussing the relevant regional planning documents, I have outlined the general planning framework and focussed on analysing what I consider to be the most relevant provisions. I have referenced but not quoted specific provisions, as I understand the Special Tribunal has copies of the regional planning documents.

### **Canterbury Regional Policy Statement**

- 4.6 The Canterbury Regional Policy Statement (CRPS) was prepared in accordance with the provisions of sections 59 to 62 of the RMA. It was proposed in 1994 and made operative in 1998. Chapter 9 deals with water and Chapter 10 with the beds of lakes and rivers and their margins.
- 4.7 The CRPS provides a broad overview of the resource management issues of the Region and a framework for managing those issues to achieve the purpose of the RMA. It does not deal with specific catchments, except when citing examples of particular issues or prioritising issues.
- 4.8 I believe the provisions of the CRPS are relevant to this application. The CRPS provides a framework for identifying water bodies which should be sustained, as far as possible, in their natural state. This is provided for in Policy 4(a), Chapter 9 (p,129). The method identified to do so is regional plans. The CRPS does not identify what these water bodies are, and the explanation to Policy 4(a) (p.129) states "*The Regional Council considers that an investigation is needed to identify these water bodies.*" The introduction to Chapter 9 (p.121, second paragraph) suggests some water

bodies, where it may be desirable to sustain their natural characteristics, subject to further investigation. The list includes the Hurunui River above the Mandamus [Confluence].

- 4.9 The CRPS provides a framework for establishing water flow and allocation regimes (Policies 1 and 2, pp.125-126). Policy 1 lists matters to be had regard to in establishing a water flow and allocation regime. These relate to instream values. Policy 2 outlines further matters that should be considered, having set a flow and allocation regime which satisfies the matters in Policy 1. The methods for establishing flow and allocation regimes identified in the CRPS are regional plans, resource consents, encouraging the development of iwi management plans, and surveillance and enforcement.
- 4.10 Chapter 10 of the CRPS provides a regime for managing effects of activities on the beds of lakes and rivers and their margins. This includes identifying and protecting or enhancing areas which contain important conservation values (Policies 1(a) and (b), p.151 and Policy 2 pp153-154). Policy 1(c) (pp151-152) provides interim protection of the beds of lakes and rivers until such areas are identified. A variety of methods are cited for implementing these policies, including regional plans, resource consents, district plans and *'implementation of other legislation,'* but the CRPS does not explain what this means.

### **Transitional Regional Plan for Canterbury**

- 4.11 The Transitional Regional Plan for Canterbury (TRP) is a transitional regional plan provided for under section 368 of the RMA. In summary, it is the existing notices, by laws and general authorisations of the former North and South Canterbury Catchment Boards and the Clean Air by-laws and orders for Christchurch, Rangiora and Kaiapoi, as at 01 October 1991. There have been three changes to the Transitional Regional Plan since that time, dealing with underground fuel tanks and stormwater.
- 4.12 The WCO application states (para 150) *"There are no operative regional plans relevant to this application."* Ms Marx in her evidence (para 5.1) states there are no *'objectives or policies'* in the TRP *'of relevance to this application'* but that she considers the WCO *"is consistent with the general intent of the transitional regional plan"*.

- 4.13 I agree with Ms Marx that the TRP does not contain objectives and policies. In this context, and given that activities are either permitted or discretionary under it, I am unclear on what basis Ms Marx concludes it is consistent with the WCO application.
- 4.14 The TRP contains provisions for some water takes, uses, diversions and damming, as permitted activities. These rules apply across the Region, including within the Hurunui Catchment. I believe they are relevant for the Special Tribunal to consider because the WCO application seeks to prevent some activities which, under these rules, are permitted activities in the Hurunui Catchment.
- 4.15 *General Authorisation for the Abstraction of Natural Water* (pp13-15) – provides for small-scale abstraction of natural water, excluding geothermal water, as a permitted activity subject to conditions. There are rules for both surface and groundwater abstractions, and abstractions from named irrigation schemes including the Balmoral Scheme.
- 4.16 *General Authorisation for the Diversion and Discharge of Natural Water* (p.17) permits diversions and discharges associated with minor realignments or minor improvements to rivers, streams and drains. (Any works themselves require a resource consent).
- 4.17 *General Authorisation for the Damming of Rivers or Streams* (pp34-35) – provides for small-scale damming of intermittently flowing rivers and streams (but not for irrigation distribution); the construction of drop structures to control active riverbed erosion; and floodgates for flood management. There are conditions under which any of these structures can be constructed, including size limits.

### **The Proposed Natural Resources Regional Plan (NRRP)**

- 4.17 The proposed Natural Resources Regional Plan for Canterbury (NRRP) is prepared in eight topic chapters and covers the whole Region. The plan was notified in two parts: Chapters 1-3 were notified in June 2002 and deal with introductory matters, tangata whenua values, and air. Chapters 4-8 were notified in July 2004, as a variation to the proposed NRRP, and deal with water and land issues.

- 4.18 The Council received submissions and further submissions from approximately 850 parties on Chapters 4-8, requesting over 35,000 decisions. The hearing of these submissions started in September 2006 and are due to finish in May 2009.
- 4.19 Environment Canterbury has notified a further 13 variations to the proposed NRRP. These include variations to establish environmental flow and allocation regimes for some catchments in the region. Variation No 8 establishes a flow and allocation regime for the Hurunui River. It was notified in August 2007 and a summary of submissions notified for further submissions in February 2008. Submissions on Variation No 8 have yet to be heard.
- 4.20 A list of the topics covered in the chapters of the proposed NRRP and variations to it, is attached in Appendix One.
- 4.21 I believe the most relevant provisions of the proposed NRRP are those in Chapter 4-Water Quality, Chapter 5-Water Quantity and Variation No 8. Variation No 8 is discussed in detail in evidence by Mr Herb Familton. As Environment Canterbury has yet to notify any decisions on submissions, I understand the proposed NRRP is that document which was notified by the Council. Therefore, all references in my evidence are to the provisions in the proposed NRRP as notified.

#### Proposed NRRP – Chapter 4 Water Quality

- 4.22 Chapter 4 of the proposed NRRP manages water quality for surface water bodies (lakes and rivers) and groundwater. Water bodies are classified in two ways:
- (i) By type – based on their geomorphology (alpine, lowland, volcanic etc); and
  - (ii) By water and river substrate quality (natural, alpine, hill, inland etc).
- 4.23 The water body types are described in Appendix WQL 1, Tables WQL 15-17 (pp4-254-4-260) and water quality classes in Schedule WQL 1 (pp.4-261 – 4-268). Schedule WQL 1 includes a list of qualitative and quantitative measures to define each water quality class. The 'type' classification of

water bodies in the Region is shown on the Planning Map 'B' series in the Planning Map volume of the proposed NRRP. The water quality classification of each water body is shown on the corresponding Planning Map 'A' series in the Planning Map volume.

- 4.24 The Hurunui River is identified as an alpine river on Planning Maps B-021 and B-022 until it reaches Lake Sumner, where its classification changes to a lake-sourced river until its confluence with the South Branch of the Hurunui River on Planning Map B-029, where it is again classified as an alpine river to its mouth (Planning Map B-030). The South Branch of the Hurunui is classified as an alpine river, and other tributaries as either alpine, hill or upper plains and inland basin, depending on their source. Lake Sumner is identified as a large high country lake and lakes Taylor, Sheppard and Mason and Loch Katrine as small-medium high country lakes on Planning Map B-022. Lake Marion and Raupo Lagoon are not shown on the planning maps.
- 4.25 The water quality of the Hurunui River is classified as 'natural' for its full length, as shown on Planning Maps A-022, A-029 and A-030. Tributaries are classified as 'natural' above and including Pig Stream, and below Pig Stream as either 'hill' or 'inland.' All the lakes shown in the Upper Hurunui Catchment, are classed as 'natural' for Water Quality on Planning Map A-022.
- 4.26 Schedule WQL 1.1 1 Class Natural states (p.4-261) *that "the natural quality of the water and the natural quality of the bed substrate shall not be altered."*
- 4.27 The objectives for water quality in rivers and lakes in the region are Objectives 1.1 (rivers) and 1.2 (lakes). The objectives are achieved through Policies WQL 1, 2 and 3 which manage point source discharges; Policy WQL 4 which manages non-point source discharges and Policy WQL 5 which manages riparian margins. Objective WQL 2 and Policies WQL 6, 7 and 8 manage groundwater sources and potential contamination from discharges to land; Policy WQL 10 manages potential groundwater contamination from bores and excavations; and Policy WQL 11 deals with contaminated land. Objective WQL 3 and Policy WQL 12 deal with community drinking water sources.
- 4.28 There does not appear to be any rules which specifically control discharges which may affect water bodies classed as 'natural'. Rather the rules apply

to a type of discharge activity into any receiving waters, and the conditions (for permitted activities) or standards and terms (for restricted discretionary activities) are based on measuring the potential effects relative to the standards set for the water quality class of the receiving water.

4.29 In my opinion, the most relevant provisions of Chapter 4 of the proposed NRRP are the objectives and policies for lakes and rivers classed as 'natural' for water quality, as that is the classification given to the Hurunui main stem and water bodies in the Upper Hurunui Catchment.

4.30 Objective 1.1 Rivers states:

*“(1) Where the river water quality or the physical and chemical characteristics of the riverbed substrate are;*

*(a) in a natural state, the water quality and the characteristics of the substrate are maintained in that state.”*

4.31 Objective WQL 1.2 Lakes (1) reads the same for lakes classified as 'natural' for water quality.

4.32 Objectives WQL 1.1 and 1.2 are achieved through policies which manage discharges to ensure the water quality is maintained within the receiving water body. Policy WQL1(b)(iv) (p.4-27) requires any point source discharge into surface water to *“not significantly alter the water quality or characteristics of the bed substrate...and the water of the river or lake continues to meet the relevant outcomes in Objective WQL 1.”*

4.33 Policy WQL 1(2) to (4) manages the zones of compliance for the discharge of any contaminant into a water body, beyond which the quality of the receiving waters should not be less than the standard set in Schedule WQL 1. Policy WQL 1(4)(b) provides that there is no zone of compliance for a river identified as natural state. It says

*“Where the discharge occurs within the following areas, the water quality standard for that river or lake shall be met at the point of discharge...*

*(b) in a river where the flow is to be maintained in a natural state...”*

4.34 However, there does not appear to be a corresponding provision for lakes classed as 'natural'.

## Proposed NRRP – Chapter 5

4.35 Chapter 5 of the proposed NRRP provides a framework for managing water quantity through takes, uses, damming and diversions of surface water and takes of groundwater. In summary, Chapter 5 of the proposed NRRP sets up the following management framework for surface water:

- (i) It identifies water bodies in the Region based on their characteristics; including water bodies identified as 'natural state' and 'high naturalness' and manages them accordingly (Objective WQN 1 and Policies WQN 1 and 2 pp5-38-5-42).
- (ii) It provides for Environment Canterbury to establish and maintain environmental flow regimes in catchments throughout the Region, including setting minimum flows and allocation regimes (Policy WQN 3, p5-46 and Policy WQN 4, pp5-51-5-52).
- (iii) The chapter also deals with effects of groundwater takes on stream depletion (Objective WQN 3 and Policy 8 (pp5-64-5-66), as well as policies that explicitly set out how allocation regimes are to be formulated for both ground and surface water unless a catchment-specific approach is taken (Policy WQN 14).
- (iv) Rules manage the take, use, diversion and damming of water depending on the classification of the water body and whether it is subject to an environmental flow and allocation regime.

4.36 In the Hurunui Catchment, the proposed NRRP identifies the following 'natural state' water bodies (Schedule WQN 5, Tables WQN 17 & 18, pp5-246- 5-248):

- North Hurunui River and tributaries upstream of Lake Sumner;
- South Hurunui River and tributaries from the confluence of Stony Stream to headwaters;
- Lakes Sumner, Taylor, Sheppard & Loch Katrine.

4.37 In the Hurunui Catchment, the proposed NRRP identifies the following water bodies as 'high naturalness' rivers (Schedule WQN 5, Table WQN 19):

- Hurunui River and main stem from Lake Sumner to the mouth; and
- All tributaries of the Hurunui River above the Mandamus Confluence.

- 4.38 Any take, use, damming or diversion of 'natural state' water bodies is managed under Policy WQN 1 (p.5-40). The policy provides for these activities if they do not have *'more than a minor adverse effect'* on the matters listed in the policy as (a) to (g). These matters include: natural flow variability; indigenous vegetation; natural character and landscape values; sites of waahi tapu or taonga; habitats of indigenous birds and fish; passage and spawning areas for trout and salmon; and amenity values (including wild and scenic).
- 4.39 The take or use of water from a 'natural state' water body is a non-complying activity under Rule WQN 11, unless it is one of the small-scale takes allowed as a permitted activity under Rules WQN 1 and 2. The damming or diversion of water is a non-complying activity under Rule WQN42 (p.5-159) unless it is permitted under Rules WQN36-39 (diverting flood waters and waters in artificial watercourses).
- 4.40 Any take, use, diversion or damming of 'high naturalness' rivers is managed under Policy WQN 2 (pp5-42-5-43). Policy WQN 2(a) (p.5-42) prevents any damming of the main stem of the Hurunui River, per se. Any damming of any tributaries of the Hurunui River upstream of the Mandamus Confluence is prevented, where such damming would *"significantly impact on the values in the area to be dammed or on the flow regime needed to maintain instream values downstream."* The policy then goes on to identify particular flows which are needed in points (b)(i) to (viii), which include:
- Flows needed for hydrological functioning of the river;
  - Flows needed to maintain habitats for indigenous birds and fish and spawning areas for trout and salmon; and
  - Flows needed to maintain cultural or natural character values of the river.
- 4.41 The damming of water in the main stem of a 'high naturalness' river is a prohibited activity under Rule WQN 43, but is a non-complying activity for other 'high naturalness' water bodies under Rule WQN 42 (unless provided for under Rules WQN36-39). There does not appear to be any specific rules for taking or using water in a 'high naturalness' water body, that do not apply to all water bodies.

4.42 Many submissions have been received on these provisions in the proposed NRRP. The Officer's Report makes several recommendations, including:

- (i) Adding Lakes Mason and Marion to the list of 'natural state' water bodies in the Hurunui Catchment;
- (ii) Removing the distinction between 'natural state' and 'high naturalness' classifications, and calling all the water bodies 'high naturalness' to avoid confusion with the 'natural state' water quality classification in the RMA.
- (iii) Rewording Policy WQN 1 so it applies to all 'high naturalness' water bodies and allowing activities provided adverse effects 'are not more than minor.'
- (iv) Amending the status of damming on the main stem of 'high naturalness' rivers from prohibited to non-complying, to make it consistent with the status for damming on other 'high naturalness/natural state' water bodies.

4.43 These are only the recommendations of the reporting officer. They are not the decisions of the Council and do not alter the provisions of the proposed NRRP.

#### **Proposed NRRP – Variation No 8**

4.44 Variation No 8 to the proposed NRRP sets out an environmental flow and allocation regime for the Hurunui Catchment. The minimum flows set for the Hurunui River are measured at one of two flow recorder sites; being approximately 1 kilometre upstream of the Mandamus Confluence for those takes above the Pahau Confluence; and at SH 1 for those takes below the Pahau Confluence. However, the flow and allocation regime applies to the whole catchment, including the existing resource consents to take water upstream of the Mandamus Confluence (of which there are two).

4.45 I understand submissions have been received on Variation No 8 requesting a broad range of relief for managing both the upper and lower catchments. Mr Herb Familton, a Senior Resource Management Planner with Environment Canterbury, will provide more detail in his evidence on these matters.

## **5. Overlap of the WCO Application and Proposed NRRP**

5.1 In my opinion there is overlap between the issues being raised in the WCO application and preferences requested in submissions, and those matters already being addressed in a public planning process through variations 1 and 8 to the proposed NRRP.

### **WCO Application**

5.2 The WCO application states (paragraph 149, p.44 and paragraph 172, p.47) that it is consistent with the direction given in the CRPS and Chapter 5 of the proposed NRRP in seeking protection of those parts of the Hurunui Catchment identified a 'natural state' and 'high naturalness.' In her evidence, Ms Marx identifies difficulties and inconsistencies in the way the proposed NRRP identifies and manages 'natural state' and 'high naturalness' water bodies. She suggests that the provisions in the proposed NRRP are inadequate and there is no certainty that an appropriate level of protection will result.

5.3 I largely agree with Ms Marx's evidence on the provisions of the proposed NRRP. I think there is an unexplained inconsistency in the classification of water bodies as natural state or high naturalness. I think there is discord between Policy WQN 2 and the status of activities as non-complying; and I think there is uncertainty as to what 'minor' effects means in relation to Policy WQN 1.

5.4 I do not agree that a WCO is necessary to overcome difficulties with provisions in the proposed NRRP, for the following reasons:

5.5 Firstly, I do not agree that being classed as 'natural state' or 'high naturalness' within the proposed NRRP means a water body is necessarily worthy of protection through a WCO. 'Natural state/high naturalness' water bodies were not assessed for that purpose in the proposed NRRP and WCOs are not identified as a method by which to implement Policies WQN 1 or WQN2.

5.6 Secondly, there is a full gambit of submissions on the provisions of Chapter 5 of the proposed NRRP from a variety of parties, including the North Canterbury Fish and Game Council on some of these matters. While Ms Marx may not agree with the Reporting Officer's recommendations, my point is that all of these issues can be resolved through decisions and if necessary appeals on the proposed NRRP.

5.7 Thirdly, while I agree a proposed plan is not usually given the same 'weight' in assessing resource consent applications under section 104 of the RMA as if it were operative; there are other measures in section 104 of the RMA to guide decision-making on resource consent applications. These include:

- (i) Any actual or potential effects of allowing the activity on the environment (under s104(1)(a));
- (ii) Any relevant provisions of the regional policy statement and any proposed plan (under s104(1)(b)(iii) and (iv), respectively);
- (iii) Any other matter the consent authority considers relevant and reasonably necessary to determine the application (under s104(1)(c)), which could include recommendations or appeals on the proposed NRRP; and
- (iv) Part 2 of the RMA.

5.8 Part 2 of the RMA provides several provisions to protect the values of water bodies, including under section 6 a duty to recognise and protect as matters of national importance:

- *The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use or development (s6a));*
- *The protection of outstanding natural features and landscapes from inappropriate subdivision, use or development (s6(b));*
- *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (s6(c));*
- *The maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers (s6(d)); and*
- *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga (s6(e)).*

5.9 Similarly, section 7 of the RMA requires particular regard to be had to

- *The maintenance and enhancement of amenity values(s7(c));*

- *Intrinsic values of ecosystems (s7(d)); and*
- *The protection of the habitat of trout and salmon (s7(h)).*

5.10 I would expect any activity involving a significant use or development of water bodies which have been identified as having 'natural state' or 'high naturalness' values in the proposed NRRP would be publicly notified; providing an opportunity for people to make submissions.

### **Water Quality Standards**

5.11 In a submission on the WCO application, Te Runanga O Ngai Tahu has requested water quality standards for the Upper Hurunui Catchment. Chapter 4 of the proposed NRRP applies water classifications over the whole catchment, including a 'natural' classification over the main stem of the Hurunui River and all tributaries upstream of and including Pig Stream, and over the Hurunui Lakes.

### **Including the Mandamus in the Upper Hurunui Catchment**

5.12 Several submissions on the WCO application have requested the Mandamus Catchment be included in the Upper Hurunui Catchment. In both the CRPS and the proposed NRRP, the natural state/high naturalness areas of the Hurunui Catchment are identified as those areas upstream of but excluding the Mandamus River.

### **Extending the WCO Application to the Lower Hurunui River**

5.13 Several submissions have asked that the WCO application include the Lower Hurunui River. From my reading, the WCO application already requests provisions for the Lower Hurunui River relating to damming and fish screens. Therefore, I assume the submitters are wanting other aspects of the WCO application extended to the Lower Hurunui River. Presumably, this would include the prohibition on surface and groundwater takes.

5.14 I agree the Lower Hurunui River has ecological, recreational, cultural and aesthetic values. It is classified as 'natural' for water quality and 'high naturalness' for water quantity, along the main stem in the proposed NRRP. However, I would question whether a WCO application would be appropriate on the Lower Hurunui River, considering:

- (i) whether its values are outstanding in terms of s199 of the RMA; and

- (ii) The needs of primary and secondary industry and of the community under s207(b) of the RMA.

### **Importance of a Regional Planning Context for Canterbury Water**

5.16 A final matter which I would like to raise, is the role of a regional plan in managing catchments in a regional context. To me, the Hurunui Catchment contains outstanding natural, cultural, recreational, aesthetic and amenity values; values comparable with those in most other high country catchments in the South Island. Even those catchments which have been modified by large-scale, hydro-electricity generation or irrigation schemes will, in their upper reaches at least, have parts with similar values.

5.17 These alpine catchments are also the principal water source for Canterbury for irrigation, hydro-electricity and possibly other uses in the future. To my mind, achieving the purpose of the RMA involves some strategic decision-making about how those catchments are going to be managed both individually and collectively, to provide for both the economic and social well-being of people and communities, and to protect their outstanding characteristics. A regional plan allows the community to do this, in a regional context.

5.18 I believe Policies WQN 1 and 2 in Chapter 5 of the proposed NRRP may have been an attempt to do, this by distinguishing between 'natural state' and 'high naturalness' water bodies based on whether they may be open to some modification. The explanation to Policy WQN 2 states (p.5-43):

*"...Accordingly, the policy recognises both the outstanding natural and cultural values and the potential of these river systems to provide social and economic benefits. The policy thus aims to protect the values it has identified as important, but does not rule out water abstraction, storage or augmentation schemes."*

5.19 The document 'Water – Our Future Issues and Options' (1990 - A discussion document contributing to the preparation of the NRRP Part C: Water), includes this type of approach as an option in Question 1, section 4.5.1 (p.63).

5.20 I believe the issue is critical to water management in the Region; and raise whether a regional plan provides more opportunity to do this than the WCO process, which focuses on the values of the subject water bodies only.

## **6. Conclusions**

- 6.1 Management of the Hurunui Catchment is provided for in variations 1 and 8 to the proposed NRRP; and the appropriate level of protection for its values is being debated in a public planning process.
- 6.2 The catchment has important values, which are recognised in Chapter 5, Seclude WQN 5 of the proposed NRRP, but its classifications of 'natural state' and 'high naturalness' in that document do not automatically equate with meeting the purpose of a WCO as set out in s199 of the RMA.
- 6.3 There is some discord in the provisions in the proposed NRRP as notified. However there is scope within submissions (and if necessary appeals) to address these matters.
- 6.4 In the interim, any resource consent to take, use, dam or divert water will need to be considered against the matters in section 104 of the RMA, including the provisions to recognise and protect the natural values of water bodies in Part 2 of the Act.
- 6.5 A regional plan provides an opportunity to manage the values of the Region's high country catchments and their potential water sources in a regional context, for the purpose of promoting sustainable management under Part 2 of the RMA. This is broader than the focus for a WCO under s199 of the RMA.

## **7. Amendments to the WCO**

- 7.1 If the Special Tribunal grants the Hurunui WCO application, Environment Canterbury has requested some amendments in its submission to improve administration. I shall briefly explain what is requested, below. The submission seeks specific relief.

### **Stream Depleting Groundwater Takes**

- 7.2 The application has asked that all water takes which directly or indirectly affect surface water are prohibited except takes for domestic, stockwater or fire fighting uses. In a letter dated 19 March 2008, the applicants state that they did not wish to adopt the hierarchy in Policy WQN 8 of the proposed NRRP for measuring stream depletion effects of groundwater takes, but suggest that Environment Canterbury could use Jenkins (1977) or any other model to

determine whether any groundwater take had a 'measurable stream depletion effect.'

7.3 I understand the issue is that all groundwater takes have some measurable stream depletion effect either individually or cumulatively. Therefore a determination needs to be made as to when that stream depletion effect is too small to warrant consideration. The proposed NRRP sets a default limit of 5 litres per second, though in some catchments other limits are being considered. I note the Rangitata WCO sets a stream depletion cut-off limit of 5 litres per second.

7.4 I do not believe Environment Canterbury has a statutory function to set a stream depletion cut-off for a WCO. However, without such a limit, it is uncertain for both resource consent applicants and for Environment Canterbury as the consent authority, when a groundwater take is sufficiently stream depleting to be contrary to the WCO.

#### **Purposes for Water Takes**

7.5 The WCO application seeks to prohibit all water takes except for domestic, stockwater and fire-fighting purposes. There are other activities within this catchment for which may require small-scale water takes, uses, damming or diversions, eg road maintenance, research or conservation purposes, micro hydro-electricity generation, and recreational uses and accommodation. In its submission, Environment Canterbury has suggested other activities for which water takes, uses or diversions damming should be allowed. Ms Marx in her evidence recommends some addition activities be provided for, but not all those suggested in Environment Canterbury's submission.

#### **Fish Screens**

7.6 The WCO application seeks conditions on the Lower Hurunui River requiring fish screens on any surface takes. In its submission, Environment Canterbury agrees with the conditions for takes greater than 10 litres per second, but has suggested conditions for smaller takes which are less onerous on the consent holder. I draw this to the attention of the Special Tribunal, but am not qualified to advise the Tribunal on the merits of the request.

#### **Water Allocation Regime – Lower Hurunui River**

7.7 The WCO application does not propose any environmental flow or allocation provisions for the Lower Hurunui River, though some provisions have been

requested as preferences in submissions. Environment Canterbury has asked that if approved, the WCO states that this does not preclude the regional council imposing an environmental flow regime through a regional plan. In her evidence (at paragraph 10.4) Ms Marx opposes this as the WCO application is silent on the issue. From my perspective, if it is not the intent that the WCO preclude a flow and allocation regime for the Lower Hurunui River, I cannot see the difficulty in saying so.

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**LMW Murchison**

**23<sup>rd</sup> March 2009.**

# **ATTACHMENT ONE – FORMAT OF THE PROPOSED NRRP AND VARIATIONS**

## **Chapters**

Chapter One – Introductory Matters

Chapter Two – Tangata Whenua Values

Chapter Three – Air

Chapter Four – Water Quality

Chapter Five – Water Quantity

Chapter Six – Beds of Lakes and Rivers and their Margins

Chapter Seven – Wetlands

Chapter Eight – Soil Conservation

## **Variations**

Variation No 1 – Chapters 4 to 8.

Variation No 2 – Water Quantity, Amendment to Schedule WQN 9 (Irrigation Demand Standards)

Variation No 3 – Environmental Flow and Allocation Regime for the Moutanau Catchment

Variation No 4 – Incorporation of Groundwater Allocation Limits in Schedule WQN 4

Variation No 5 – Environmental Flow and Allocation Regime for Kaikoura Catchment

Variation No 6 – Christchurch Groundwater Protection Zones

Variation No 7 – Environmental Flow and Allocation Regime for Conway Catchment

Variation No 8 – Environmental Flow and Allocation Regime for Hurunui Catchment

Variation No 9 – Environmental Flow and Allocation Regime for Waihao Catchment

Variation No 10 – Environmental Flow and Allocation Regime for Part of Ellesmere Catchment

Variation No 11 – Provisions to Manage PM<sub>10</sub> Contaminant in Rangiora

Variation No 12 - Provisions to Manage PM<sub>10</sub> Contaminant in Kaiapoi

Variation No 13 - Provisions to Manage PM<sub>10</sub> Contaminant in Ashburton

Variation No 14 – Discharge of Sewage Effluent into Land from On-site Systems