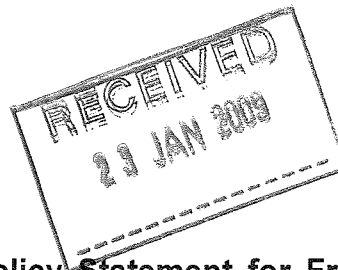


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23 JANUARY 2009

**Submission on Proposal for National Policy Statement for Freshwater Management**

Section 49 of the Resource Management Act 1991.

To: the Chairperson  
Board of Inquiry

This is a submission on the proposed national policy statement for freshwater management.

I wish to be heard in support of my submission.

**INTRODUCTION**

The Water Rights Trust (WRT) is a voluntary organisation with wide ranging community support, mainly within Canterbury. Over the last 7 years we have made submissions to Ministers, the Ministry for the Environment and Environment Canterbury. The WRT is represented on the Steering Group for the Canterbury mayoral forums Water Management Strategy. The WRT has also been represented on the Ministerial Advisory Group and Technical Reference Group for the Sustainable Water Programme of Action.

Canterbury's natural freshwater resources:

- are finite;
- are a public resource;
- underpin the Kiwi outdoor life style and our 'clean and green' brand; and
- are being polluted and depleted by agriculture.

Urban development and lifestyle blocks are significant contributors to water-ways damage. But because of the scale of the drive to develop dry-land into irrigated pasture, it has become mainly a rural issue. Recent Christchurch City Council estimates to re-engineer our sewerage and storm-water systems to prevent contamination of the Avon and Heathcote rivers carry estimates running into hundreds of millions of dollars and reflect historic engineering decisions that over time need to be rectified. That situation does nothing to excuse avoidable behaviours that are continuing to destroy our rural waterways.

Just knowing that they are there, our clean, vibrant rivers and streams, has significance for people of all ages and ethnicities. It's an implicit part of who we are; something we don't even think about, until they have been taken from us. The fouling of our waterways is demeaning and erodes our pride of self and place.

Clear environmental standards are needed within which economic choices are made in what is produced from the region's land and water. We must define critical elements of the management regime and set target dates to ensure these standards are implemented. This approach would clarify available options for water and associated land-use and would inform catchment management practices.

## COMMENTS ON THE PNPS

New Zealand has no national objective specifying a water quality standard to be achieved over time. The PNPS would continue this situation. It is imperative that government acts swiftly to provide an overarching framework that provides for sustainable management of our fresh water.

### **“Outstanding Freshwater Resources”:**

In the absence of a national standard, the draft NPS proposes a process by which those who want to improve water quality can nominate water bodies as “Outstanding Freshwater Resources” and advance evidence to justify this status. This nullifies the universal value of clean fresh water and reduces it to a special privilege which may be granted on application.

The onus of proof should be on those seeking to continue to pollute any water body on a long term basis by providing evidence to justify their belief that the water body cannot be improved to meet the national standards within a specified time-frame. Following public notification and due process, such water bodies would be listed in regional plans as having “Protracted Polluted Status.”

The WRT maintains that standards must be set urgently that enable the following principles to be upheld:

#### **1. Recreational contact with water**

All rivers, streams and lakes must be safe for gathering food and safe to swim in.  
*Any exceptions must be identified, and either excluded from this requirement, or given a timeframe by which recovery of the resource is to be achieved.*

#### **2. Drinking water**

All groundwater must be safe for human consumption without needing to be treated.  
*Any exceptional aquifers must be identified, and either excluded from this requirement, or given a timeframe by which recovery of the resource is to be achieved.*

#### **3. Flow regimes**

Flow regimes for each river or stream must meet environmental and ecological standards.  
*Any exceptions must be identified and either excluded from this requirement, or given a timeframe by which recovery of the resource is to be achieved.*

**The basis for determining exceptions is detailed further on in this document.**

*All reference to “outstanding freshwater resources” should be deleted.*

### **“Industry good practice”:**

The listing of “industry good practice” as an acceptable minimum way of complying with the non-degradation objective in Policies 2(c) and 3(b) does not specify what needs to be done to meet the objective and endorses the status quo, when change is what is really needed. The term “industry good practice” is an undefined and meaningless statement. *All references to “industry good practice” should be deleted.*

## **“Existing uses and existing investments”:**

The listing of existing uses and existing investments as matters to which councils should give weight in Policy 4(d) would limit the ability of councils to reduce the over-allocation of water in critically affected catchments.

An additional effect of this provision would be to privilege existing inefficient water users at the expense of other, more efficient allocations of water. Upgrading existing delivery systems to avoid wastage through leakage would be consistent with the RMA sec 7(b) requirement to promote efficient use of resources. The critical need here is not to privilege existing investments, but within the constraints of the existing law, to free up water to be restored to the streamflow, and to enable it to flow to new, more efficient investments that could generate more economic welfare at lower environmental impact. *Policy 4(d) should be deleted.*

## **“Planning for infrastructure”:**

There is a requirement on councils in Policy 5(c) to consider *“the importance of ensuring that the planning for and implementation of infrastructure for water supply... are undertaken... at a rate that, as a minimum, keeps pace with the rate of Land Use Development.”* This requirement amounts to a policy to promote irrigation schemes, which are a particular engineering solution to the meeting of community water needs.

Under the RMA, water needs issues are to be viewed from a broader sustainability framework which would allow consideration of alternative solutions.

Water issues are often polarised and can only be resolved successfully if there is an open approach to the community, one that avoids the suggestion of predetermination. This is the intention of the Canterbury Water Management Strategy. The draft NPS wording tilts the playing field towards irrigation schemes.

### ***Policy 5(c) should be re-worded as follows:***

*The importance of ensuring that planning for infrastructure for water supply, wastewater treatment and stormwater are undertaken in an integrated manner with planning for land use.*

## **THE CANTERBURY WATER MANAGEMENT STRATEGY (CWMS)**

The CWMS being developed under the direction of the Canterbury Mayoral Forum is seeking:

***“To gain the greatest social, economic, environmental and cultural benefits from Canterbury’s water resources within an environmentally sustainable framework.”***

**The Water Rights Trust has suggested the following components be included in the Canterbury Water Management Strategy, and these may also be relevant to the NPS:**

### **PRIMARY PRINCIPLES**

#### **1. Sustainable development**

Water is common property and must be managed with integrity in accordance with “sustainability principles” as defined by Local Government Act *or* “the principles of sustainable management” as set out in Part II RMA.

## 2. Kaitiakitanga

The principles of traditional and cultural guardianship by tangata whenua apply to all water and lakes, rivers, waterways and wetlands and are respected and implemented.

## 3. Regional Approach

The Canterbury Water Management Strategy is being prepared with input from the whole Canterbury region, with the aim of getting broad public support, and the support of all local authorities in Canterbury. The strategy embraces all sources of natural water within the region and all uses of that water. It is expected that the strategy will be implemented by the local authorities through their statutory processes. It is recognised that any use of natural water should be guided by the interests, in priority order, of:

1. The environment
2. Community supplies and stock water
3. Irrigation
4. Renewable electricity generation.

**The regional approach should include the following elements:**

- A **consistent regulatory approach** to water is applied throughout the Canterbury region, recognising these principles.
- Both **in-stream and groundwater** are given equal importance in the management of Canterbury's water resources.
- The further development of **scientific knowledge** of the region's water resources will be a priority.
- **Water storage** is recognised as one option to help achieve the Strategy's overarching outcome. Storage varies from large scale reservoirs to on farm ponds. Other options include encouraging economically viable farming methods that demand less water and fertiliser input than current intensive methods.
- The potential for individual water takes, diversions and uses to have significant **cumulative effects** is recognised and priority is given to avoiding such effects.
- Adverse effects should not just be managed, but in **"at risk" catchments** may need to be "avoided". This may have the effect of prohibiting further abstraction or particular land uses.
- In managing all water takes, diversions, and uses there is a strong emphasis on **integrated water and land management**, protection of indigenous biodiversity, and enhancement of water quality.
- Current and potential effects of **land use intensification** and non point source discharges on water quality shall be considered as integral to decisions on water takes, diversions and uses, and evaluation of any water storage options.
- A **cautious approach** shall be taken when information is uncertain, unreliable or inadequate. This may involve requiring additional information to be obtained to support decision making.
- Existing **investment in infrastructure** is recognised.
- Closer alignment with the RMA may be necessary
- Recognising that **climate change** may increase the stress on water resources, particularly in conjunction with abstraction for irrigation, seek to increase the region's resilience to the effects of climate change and buffer river flows and groundwater levels against those effects.

## SUPPORTING PRINCIPLES

To achieve sustainable outcomes, standards must be set, achieved and maintained in the following areas:

## 1. Natural Character

The natural character (mauri) of Canterbury's rivers, streams, lakes, aquifers, and wetlands is maintained and valued. The dynamic processes of Canterbury's braided rivers define their character and will be protected.

- Environmental flow regimes which protect life supporting capacity and ecological health and values shall be established for every waterway where water abstraction occurs or may occur, recognising the interconnectedness between surface and groundwater.
- The existing natural character of the region's rivers, streams, lakes, aquifers and wetlands shall be preserved and protected, and where degraded, shall be restored and enhanced consistent with the goals and targets of the Canterbury Biodiversity Strategy.
- While many waterways have been modified by abstraction, diversion and land uses in the catchment they continue to be important for biodiversity, recreational amenity and enjoyment and quality of life.
- The interdependence between surface waters and groundwater and coastal ecosystems is recognised.

## 2. Water Quality

### A. Public health

Surface waters and groundwater where water quality is in a natural state shall not be degraded. All rivers, streams and lakes must be safe for gathering food/mahinga kai and have water quality safe to swim in.

### B Non point source contaminants

Non point source discharges to surface waters, groundwater and wetlands shall be managed to avoid the risk of any further decline in water quality and ecological health compared to monitored levels in 2004. (**Explanation:** This can be achieved by ensuring agricultural stock are excluded from water bodies in catchments where intensive farming is practiced, managing land use including regulating application rates for fertilisers, and limiting stock numbers in "at risk" catchments.

### C Drinking water

All groundwater must be safe for human consumption without needing to be treated. Water quality in aquifers which provide households and communities with high quality drinking water with no need for treatment shall be preserved in this state. Decisions on allocation and use shall give priority to community and domestic water supplies.

### D. Timelines

Where water quality is already degraded, timelines shall be set for the restoration of each waterbody, but not extending beyond 2xxx

### E. Exceptions:

- Where a particular fresh water resource cannot be managed to achieve these standards in the time available because of naturally occurring contaminants which cannot reasonably be remedied, or ephemeral or intermittent flow conditions, where these conditions are naturally occurring, such particular fresh water resources shall be identified in the regional plan as having "naturally degraded status".
- Where a particular fresh water resource cannot be managed to achieve these standards in the time available because the resource, and/or resources associated with it, have become contaminated by human agency and there are long time lags in the operation

of natural hydrological or ecosystem processes, which make it impractical to achieve the standard in the time available; or

- (a) The costs of modifying adjoining land use practices to reduce the pollution of the particular fresh water resource are such that they would render any land incapable of reasonable use, and would place an unfair and unreasonable burden on any person having an interest in the land; or
- (b) In the case of a freshwater resource in an urban catchment affected by stormwater discharges, including stormwater contaminated by sewage, the costs of removing or remedying the contamination sources in the time available are prohibitive;

*that particular water resource shall be listed in the regional plan as having "protracted polluted status," and a later date shall be specified for compliance with the water quality standard.*

### 3. Recreational Opportunities

Rivers, lakes, waterways and wetlands have significant landscape and amenity values. They provide opportunities for enjoyment and recreation. High water quality ensures contact recreation such as swimming, fishing, boating and other water sports are able to be enjoyed throughout Canterbury.

- Water flows are maintained at levels that ensure surface waters are swimmable and fishable enabling recreational users to enjoy Canterbury rivers.
- Eco-tourism opportunities are recognised and encouraged.

### 4. Access

Public access to and along rivers, lakes, waterways and wetlands is safeguarded.

- Access may be limited in situations where environmental risk, biodiversity and farm management require.

### 5. Commercial Opportunities (Efficient and effective water and land management)

In all uses there is a strong emphasis on integrated water and land management, protection of indigenous biodiversity, and valued introduced species such as trout and salmon, enhancement of water quality, not just management of adverse effects.

We use *some* water resources to provide commercial opportunities that enable individuals and communities to meet their social and economic needs.

- Water is used effectively and efficiently, taking account of environmentally sustainable economic returns per unit of water used.
- Land use practices are monitored and **integrated catchment management, including adaptive management**, is urgently advanced across the region as a vehicle for preventing contamination of ground and surface waters.
- The natural characteristics of waterways, particularly those which are recognised and protected by **Water Conservation Orders** are upheld

These principles provide a basis from which more detailed and specific actions and approaches can be developed.

A NPS for water that provides overarching commitment to sustainable outcomes for freshwater would reinforce these imperatives for Canterbury. The PNPS does not do this.

## **COMPONENTS** critical to sustainable management of water:

**1. Caps must be set** for nutrient input and water takes and use for irrigation within catchments, sub-catchments and farms that ensure environmental standards are met. Such caps must be readily adaptable as science develops understanding of what a catchment can sustain.

The science of transport of nutrients through soils and into aquifers is still developing - nutrients can take many decades to reach aquifers from present land-use activities, depending on various factors such as depth of aquifers, from the soil surface, and soil types. These variations exist from catchment to catchment, within catchments and sub-catchments and within farms. The input models to provide information on caps are therefore likely to be complex. Climate variability also plays a part. The Integrated Research into Aquifer Protection (IRAP) study is still to be completed to the stage where it will be able to adequately inform farming practices.

**2. Water Trading - there are big question marks** about the effects of further intensification that need to be clarified before **water and nutrient trading could start.** Trading might only be considered in Canterbury **after** catchment caps for both water allocation and nutrient inputs are in place, adjustments have been made to existing allocations and there is clear agreement within each catchment for the authority of ECan to make whatever **adjustments to caps are necessary, as science emerges on what a catchment can sustain.** The sequence is important. Cantabrians would object to windfall profits arising from the trading of unused allocations that place further pressure on our stressed waterways and add to the threat of contaminating our drinking water. For example, we note ECan's current programme to review consents in the Selwyn/Rakaia catchment to return environmental flows to rivers such as the Selwyn and Irwell. Such a review needs to be undertaken throughout the region, both for water quantity and water quality. In Australia tradeability of previously allocated but unused water has resulted in significant impacts when that water was able to be traded.

**3. A volume related rent** on all water used for commercial purposes, and with such rentals accrued (and used?) on a catchment basis for a specified range of purposes, including restoration of damage already done. Such funds should be used for restoring degraded water bodies like Lake Ellesmere/Te Waihora and lowland streams. Some of the concerns of Ngai Tahu might be resolved if they were involved in an advisory body to ECan which collected water rents and decided how and where they should be spent. A resource rental for water would parallel the currently ability of regional councils to levy a coastal occupation charge for commercial or private use of another common property resource – coastal open space.

**4. A catchment management development programme** is needed to get community structures in place to oversee the water management of each catchment according to the regional water strategy and plan. Water management zones and associated community liaison structures being considered by ECan may be relevant.

**5. A robust independent audit framework and a tough penalty regime** is essential to ensure compliance – perhaps based on a percentage of farm income.

## **ROLE OF CENTRAL GOVERNMENT**

The Canterbury Mayoral Forum's Water Management Strategy must be supported by central government to the extent that is necessary for the strategy to be developed and mandated under legislation **without being pre-empted** by activities being committed to under existing legislation. In the meantime, the CWMS must continue to develop its aims for optimal use of our resources within a sustainability framework that recognizes the importance of ensuring the quality of the regions drinking water and water in our rivers, streams and lakes, and the quantity of water available to our rivers and streams meet community agreed standards. **It is then up to the rural sector** to find the best way to produce within these constraints.

## **INTERIM SOLUTIONS: a moratorium; or a National Environmental Standard with a moratorium on new takes in "at risk" catchments?**

How long will it take to get the new water management regime settled in across the region? A decade? Two, perhaps? A means of **putting new water take applications in over allocated catchments and aquifers or those at risk of over allocation (eg Red and Yellow Zones) into "holding pattern" is needed** and is likely to receive strong support from the Canterbury public. This would allow time for the Canterbury mayoral forum's Water Management Strategy to be completed to determine community preferences over some key aspects of water management such as storage options, as well as how best to sustainably manage our water.

**Section 43(2) of the RMA** enables standards to include "methods for classifying a natural or physical resource". Standards may "prohibit" an activity or allow consents to be granted "but only on the terms or conditions specified in the standard." The NES could give regional councils the authority to designate "at risk catchments or groundwater resources" and implement associated control mechanisms, such as not processing new consent applications. The "at risk" designation would remain until provisions in the regional plan to address the issue had become operative. This would allow regional councils a breathing space to develop more accurate modelling, adequate scientific understanding and consensus over the nature and scale of effects, and strengthen plan policies and rules.

Ten criteria which could be used to identify "at risk catchments" are set out in Environment Canterbury's submission on the proposed National Policy Statement (NPS) for Freshwater Management.

**BEING ABLE TO AGREE** on the science underpinning **sustainable** integrated catchment management as distinct from the present adversarial approach is critical.

## **WE ALSO NEED TIME:**

- for research findings from the IRAP study to be completed to the stage where land-use decisions may be adequately informed.
- for the NRRP to be made operative. Hearings conclude in April 2009 and decisions are expected mid year. Submissions to the NRRP need to be addressed, including its water quality objectives and the lack of any objective concerning the water quality of Te Waihora (Lake Ellesmere).
- for groundwater resources to be mapped sufficiently to determine hydraulic connection to streams and accurately model effects of existing takes.
- enable meters to be installed to allow measurement of water takes.

- for the effects on rivers and landscapes from major water storage proposals to be determined, and for alternative irrigation options including smaller on farm storage schemes and land use alternatives to be explored.
- for a general consensus on what constitutes “adaptive management” in relation to groundwater and how it is to be implemented.

### **CRITICAL RESULTS**

- The path is set and followed to a timeframe within a strategic framework that will ensure land is used for optimal economic return while ensuring a healthy, sustainably managed environment
- Reduced contention over water allocation; diminished potential for community conflict
- More progressive needs-oriented leadership towards a sustainable situation, with accompanying economic, social, cultural and environmental benefits for the whole community
- Funding for restoration and the future sustainable development of water
- Gets the pain of inevitable change over as fast and effectively as possible.

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