SUBMISSION

Action for Healthy Waterways

A discussion document on national direction for our essential freshwater

Date: 31/10/2019
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Personal details removed
Company Description

Ashburton Lyndhurst Irrigation (ALIL) is a water supply management company receiving its allocation of water from the Rangitata Diversion Race Management Limited and distributing its water through a network of pipelines to its shareholder members who collectively farm close to 32,000 hectares. Water is sourced from the Rangitata and Ashburton Rivers.

The company's scheme area stretches from the Ashburton River in the south across toward the Rakaia River in the North.

The ALIL Scheme (The Scheme) was developed in the late 1940's to provide borderdyke irrigation supply via a gravity fed open channel system. In 2017 the scheme completed the major project of piping water to its shareholders. All shareholder now receive pressurised water to their gate at 40 meters of head.

The Scheme includes 236 shareholders who operate a mix of arable and livestock farms.
ALIL started the journey to improved catchment wide water quality in 2014 when we gained a global consent from ECan to manage the discharges from our farming activities.

All ALIL shareholders have:

- had a Farm Environment Plan (FEP) in place since 2015
- had an on farm audit of their FEP
- been trained in what good management practise means on their farm
- had access to trained specialist to assist them with continuous improvement.

Farm Environment Plans (FEPs) are updated annually, and audited every 3-4 years. The FEP covers all the practices that this proposed freshwater package looks to achieve.

General Feedback

Ashburton Lyndhurst Irrigation Limited is broadly supportive of the Action for Healthy Waterways document’s goal to improve water quality. We are supportive of the compulsory implementation and auditing of farm plans approach in the package, stock exclusion and a move to good management practice for winter grazing.

ALIL farmers share many of the same goals as other New Zealanders:

- to reduce their environmental footprints and see improvements in the health of our waterways
- to contribute to the wellbeing of their communities
- to provide for a sustainable future for New Zealand

We have significant concerns about some of the proposals and hope the Government will be open to considering alternatives.

Proposals Impact on Waterways in Our Area

*please refer to questions 1-3 on page 19 of the discussion document*

ALIL farmers currently farm under Environment Canterbury’s (ECan) Land and Water Regional Plan (LWRP). The LWRP identifies two ‘nutrient allocation zones’ in the ALIL command area. Plan Change 5 to the LWRP, which became operative in 2018, is the ‘hold the line’ Plan Change which limits land use intensification, requires consents for farming activities and implementation of Good Management Practice nitrogen loss rates by July 2020. On average this is a 30% reduction in N loss.

ALIL shareholders operate under these region specific provisions developed by ECan through a robust planning process. The provisions already in place in Canterbury control the same effects which the Action Plan for freshwater package seeks to control.

Impacts and Implementation

*please refer to questions 4-6 on page 19 of the discussion document*
ALIL is concerned that the package will have severe unintended consequences economically, socially and environmentally on our local communities.

The Ashburton District had a GDP of $1,952 million1 in 2018, this had grown by 2.2% from the previous year. The District’s Economy is reliant on the rural sector, with 38.3% ($748 million) of our GDP coming directly from the agriculture, forestry and fishing, and manufacturing (including meat processing) industries in 2018. These industries employ over 7,400 people in our district (from a total of 19,000 jobs) and account for over 1,900 businesses (from a total of 5,200 businesses).

The Action for Healthy Waterways Discussion Document indicated that the implementation of the proposed attributes for water quality in the NPS could require N loss reductions of over 80%2. The Selwyn Te Waihora Zone Memorandum, 2017 shows that under similar reduction targets (75% N Loss reduction) ‘widespread loss of equity and change in land ownership is likely, and rural communities will experience loss of services and depopulation.’

ALIL is also concerned that the suggestion of a generational change will result in planning blight. Planning blight can arise where the possibility of expected or possible future regulation hinders the use and development opportunities of land for a significant period of time. Uncertainty over an area’s future use and lack of a firm timeframe for proposed changes results in a lack of confidence in the interim use of properties. This results in a devaluation of the property asset, as the economic use of the property into the future becomes uncertain. It can also result in a lack of investment on farm due to future uncertainties.

The wellbeing of our wider District is reliant on the rural sector either directly or indirectly. The DairyNZ economy wide effects report dated 29 October 2019 estimates that employment on dairy farms will drop by 17%. We believe that the impact will be felt far more widely, with flow on effects to service industries and retail businesses. Reduced income at a community level reduces resilience of the community and their ability to provide for their social and environmental needs.

Changes of this nature will have a detrimental effect on the entire fabric of the Ashburton community. Alternative land uses, such as forestry, employ significantly fewer staff, have less annual turnover, spending less in the community for goods and services. A smaller population would mean smaller schools and fewer activities, providing fewer opportunities for connection. We know isolation and a lack of connection severely impact mental health, we well as stress and loss of identity. ALIL are concerned that these wider social impacts have not been fully considered when setting the national bottom lines.

We are concerned that our community will face additional and compounding pressures as a result of the freshwater proposals in addition to the Zero Carbon Bill, Mycoplasma bovis the pricing of agricultural emissions. Between 2000 – 2015, the Ashburton District had 67 suicide deaths, an average of 4.4 deaths per year. The overall rate for our district is 14.3/100,000, which is higher than

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1 Infometrics Economic Profile, 2018
2 Pag 86
the Canterbury average of 12.6/100,000 and the New Zealand average of 12.1/100,000 over the same period\(^3\).

Proposing a plan of action for healthy waterways without assessing the economic and social impacts at a regional and district level is counterproductive to the Government’s aim to “have put the wellbeing of New Zealanders at the heart of everything we do”\(^4\).

### Te Mana o te Wai and strengthening Māori values

*please refer to questions 9-16 on page 36 of the discussion document*

We support the strengthening of Maori values.

We do not support the hierarchy of obligations, that the first priority is the health of the water, the second priority is providing for essential human health needs, such as drinking water, and the third is other consumption and use for two reasons.

Firstly we think this overly simplifies the concept of Te Mana o te Wai. We understand that Te Mana o te Wai describes a symbiotic relationship between the health of the river and the health of people, you cannot have one without the other, but one does not take precedence over the other either. This approach is distinctly different from the approach proposed in the NPS which puts the river health before the health of people.

Secondly we believe that this definition of Te Mana o te Wai and the Objective of the Draft National Policy Statement for Freshwater Management (NPS-FM 2019) is at odds with the purpose of the Resource Management Act (the Act).

The purpose of the Act is to promote the sustainable management of natural and physical resources. Sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety ...

Putting the health of the water before essential human health does not enable people to provide for their well-being, and does not therefore meet the purpose of the Act.

**Proposed Relief**

- The health of the water is equal to the health of the people and reflects the frames work in section 5 of the RMA.
- Changes to the hierarchy of obligations should be through amending RMA

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\(^3\) Otago University Injury Prevention Research Unit, 2019

New Planning Process for Freshwater through Amending the RMA

*please refer to questions 17 on page 36 of the discussion document and questions 40-42 on page 53 of the discussion document*

We support the proposed mixed model for the appointment of hearing panels, which will include accredited freshwater specialists and Tangata Whenua appointments, along with local representation.

However, we are concerned about the limitations on appeal rights as proposed, particularly limiting appeals on points of law to the High Court only in the case of councils rejecting a decision of a hearing panel. Having a higher appeal authority when a council has rejected a hearing panel decision is critical to ensuring that we continue to maintain a growing body of case law and jurisprudential guidance and reasoning, given that the first level of appeal under this avenue is on merit to the Environment Court.

*Proposed Relief*

We support the submission of Environment Canterbury at paragraph 30 which states:

*We propose that the new planning process apply to all plans (not just freshwater). In practice, it is difficult to ring-fence freshwater issues. Doing so could lead to less integration. For example, near the interface with the coastal environment it would be difficult to compartmentalise freshwater matters.*

We also seek to ensure that significant matters of merit can be appealed.

National bottom lines – dissolved inorganic nitrogen (DIN) and dissolved reactive phosphorous (DRP) and Sediment

*please refer to questions 20-21 and 30-35 on pages 52 and 53 of the discussion document*

ALIL does not support the inclusion of Dissolved Inorganic Nitrogen (DIN) attribute. ALIL accepts the 1ppm DIN limit is an appropriate limit for most waterbodies in New Zealand. However, due to natural physical features of some water bodies, and broad definition of rivers to define the limit, it is simply unattainable in some waterbodies and exceptions should be made on a case by case basis.

We support IrrigationNZ, DairyNZ and Canterbury Regional Council’s assessment of the inappropriateness of standardised limits for some attributes. In particular, we support the following comment from IrrigationNZ’s submission:

*“In principle when setting national bottom lines, the following should be true:*

- *The attribute and its level should be effects based.*
- *For a single attribute to be set as a national bottom line, the resulting effect or risk of effect should be consistent across New Zealand.*
It is our view that a number of national bottom lines do not meet the above principles while others do. The attributes that do in our opinion are:

- E. coli for contact recreation
- Dissolved Oxygen (DO) for ecological health
- N Toxicity for ecosystem health
- Sediment effects on aquatic habitat

It is our understanding the relative effects of the proposed national bottom line concentrations for DIN and DRP can range from benign to severe depending on the receiving environment and ecosystem health can vary widely with the same nutrient concentrations in different parts of the country.

Where different attribute concentrations achieve different outcomes across New Zealand, we believe these should be set as specific measures on a site-specific scale, based on site specific science through the imminent FMU process.

Physical habitat measures have been left out of the NPSFM. Physical habitat is a significant driver of ecological outcome. We support Irrigation NZ’s view that physical habitat quality assessment should be made to determine if it would adequately provide for the species expected to be present.

It is our view that the assessment of the physical habitat and the national bottom lines needs to represent local conditions and community aspirations and be tailored to the specific freshwater body type within a catchment context.

Sediment is recognised as a leading cause of biological impairment in rivers and streams. We would support a focus on measures that reduce sediment input to streams where it is identified as an issue as sediment input is generally more damaging to the health of grassland streams than augmented nutrient concentrations.

We support Irrigations NZ’s view that there is no robust way for single national bottom lines to account for the effects of site-specific multiple stressors. DIN and DRP levels need to be set at a site-specific scale, accounting for other variables affects ecosystem health and how those variables interact.

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5 We agree that sediment standards (both suspended and deposited) should be referenced to specific catchment sediment class via the River Environment Classification.
6 For instance, in rivers with warm temperatures and long accrual times.
7 Waipahi River at Cairns Peak has a median DIN level of ~1mg/L and a median MCI score of 108.3 while Waiwera at Maws Farm has a median DIN level <1mg/L and a median MCI score of 84.5. State of the Environment Surface Water Quality in Otago 2006 to 2017. ORC report available at www.orc.govt.nz/media/6957/final_orc_soe_report_2006_to_2017.pdf
Proposed relief

Option 1: Maintain and Improve DIN
Our preferred relief supports Canterbury Regional Council and IrrigationNZ’s submissions to set a national bottom line of current levels in a water body, with plans in place to improve where site-specific assessments identify more applicable limits for a waterbody.

Option 2: Permit Exceptions
ALIL support the inclusion of exception criteria, where a DIN limit can be set at a toxicity level or re-evaluated through a regional planning process in particular circumstances.

Option 3: DIN Limits by River Classification
Identify appropriate DIN bottom lines by river type. AFIC believe a classification system will provide certainty in planning processes and more refined limits, however recognise a classification system still does not fully take into account the physical context of a particular waterbody and is therefore our least preferred relief option.

Flows and metering

*please refer to questions 37 and 38 on page 53 of the discussion document*

ALIL support IrrigationNZ’s position on water metering and telemetry requirements.

Drinking Water National Environmental Standards

*please refer to questions 43-45 on page 56 of the discussion document*

ALIL support further clarification and standardisation of drinking water source protection zones along the lines of that suggested by the PDP 2018 report Technical Guidelines for Drinking Water Source Protection Zones. However, we have shareholders located within Canterbury Community Drinking Water Protection Zones and are concerned about how these proposals will impact them.

Our primary concern is the proposed controls on land use within Zones 2 and 3 as these zones could be comprised of significant areas of private land and catchments. Restrictions on land use within some areas could have far-reaching consequences.

Secondly, ALIL are concerned the NES has indicated they would define the type of activities that must be assessed as potential risks. By defining the land use activity as a risk out of context of potential pathways for contamination may mean land owners are subject to onerous limitations without a resulting benefit in the quality of the water supply.

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8 River type defined as one of the 9 river classes of the NZ River Environment Classification System
9 Microbial protection zone
10 Catchment protection zone
Thirdly, ALIL is concerned that the principle of reverse sensitivity is not accounted for in the NES, and that new water supplies could be established which effectively limit the use of surrounding land.

Lastly, ALIL are concerned consents requiring public notification may be required for existing activities. Potential impacts of existing activities should be well known, with little doubt of the risks these activities present and how they should be managed. Public notification should only apply to consents for new activities where there is greater uncertainty of the potential impacts on the water supply.

Proposed Relief – Drinking Water Supplies

1. A full economic assessment is completed prior to implementation of onerous controls on land use for existing activities within Zones 2 (microbial protection zone) and 3 (catchment zone)
2. The NES sets out a standardised risk assessment tool which must be used by councils to identify risks and activity may have on a water supply. This tool should take into consideration the land use activities and potential pathways for contamination.
3. Public notification is only required for new activities

Restricting further intensification

*please refer to questions 51-53 on page 80 of the discussion document*

Effects on existing consented land use activities

ALIL support the introduction for restrictions in intensification where no controls have yet been implemented through regional plans. However, ALIL and their shareholders have been operating under the Canterbury Land and Water Regional Plan since 2012.

The tight restrictions of consented nitrogen loss limits effectively control winter grazing, dairy conversions and increases in irrigation area, as an individual is unlikely to comply with their current legal obligations, unless they can demonstrate some other efficiency gains in order to remain within their nutrient cap. Controls of other contaminants, such as pathogens and sediments, are addressed and audited through Farm Environment Plans where the farmer will need to demonstrate Good Management Practice of the new activity to specifically mitigate these effects.

Obtaining a separate resource consent in order to manage inputs such as winter grazing, irrigation or significant changes in land use will merely create duplication and confusion, without any further benefits to the environment.

We seek wording that explicitly excludes Canterbury from the NES interim measures. The current provisions in sub part two are open for interpretation. We seek to remove any ambiguity that the interpretation might create for the Regional Council and ourselves in giving effect to the Action Plan for freshwater package.
Proposed Relief – Consents for Intensification

ALIL propose that Canterbury and all other regions which have operational regional plans limiting nitrogen losses and audited farm environment plans are excluded from the temporary intensification consenting requirements. This could be achieved by excluding the Canterbury Region from Subpart 2 of the NES.

Implementation Issues

ALIL have been working with shareholders closely over the past 5 years with improving their environmental practices and supporting them with managing changes in land use.

Further clarity is required about the definition of “dairy-support” if an increase above 10 ha is to be a trigger for consent. From our experience, “dairy-support” consists of a considerable range of activities from intensive winter grazing, to rearing calves and replacement stock, to growing grains for feed, and it is often interchangeable within mixed livestock operations or arable systems.

ALIL are also concerned about a blanket rules requiring consent for increases in a number of activities above 10 ha, without consideration of the risk the property actually presents to the environment. In sensitive catchments, allowing changes up to 10 ha may not address issues, however in other areas, such as the Canterbury Plains, 95% of properties do not have a natural water body and these changes can occur without any potential impact on surface water quality.

Farm Plans and Audits

please refer to questions 54-57 on page 80 of the discussion document

We support the implementation of farm plans and auditing of the freshwater modules. Feedback from the auditors and shareholders have indicated the process is very engaging and helpful in improving on-farm performance.

It will be a challenge to effectively implement compulsory farm plans with Certified Farm Planners by 2025. The qualifications and experience requirements will severely limit the pool of people available to complete this work and increase the time needed to train new people into this area. This may reduce the engagement of the farmers with the process.

Federated Farmers recently surveyed their members operating land use consents in Canterbury and found the biggest driver of change was the Audit of their FEPs. Our experience supports this view, with many shareholders strongly driven by wanting to do well in their audits and genuinely appreciative of the feedback an audit provides.

ALIL are concerned insufficient thought has been given to the implementation of the auditing and extension process which will be fundamental to the success of the programme as a whole.
Proposed Relief – Farm Plans

We support the preparation of farm plans by the farmer themselves, with lesser qualified support or through group facilitation programmes. By simplifying the initial set up, you can improve engagement with farmers through lower costs and fewer barriers, as well as initiate this process quicker.

Ultimately, all farmers need to be held to high standards of Good Management Practice, therefore inadequate farm plans will be picked up and addressed through the Audit by highly qualified and experienced auditors.

We also propose farm plans are prepared on a catchment basis, targeting the highest risk catchments first within the following timeframes:

- High Risk Catchments\(^{11}\): 31st December 2025
- Medium Risk Catchments\(^{12}\): 31st December 2027
- Low Risk Catchments\(^{13}\): 31st December 2030

Immediate action to reduce nitrogen loss

*please refer to questions 58-64 on page 80 of the discussion document*

ALIL support DairyNZ’s submission on these matters, particularly an emphasis on Simple N Surplus as this is a more comparative metric for identifying a risk a property may have for nitrogen loss.

Excluding stock from waterways and Setback Distances.

*please refer to questions 65-68 on pages 80 and 81 of the discussion document*

ALIL support DairyNZ’s and MHV Water’s submission on these matters. Our primary concern is the lack of consideration for the risk of run-off from a property with the minimum set back and the moving of existing fencing.

ALIL agree setbacks from fences are essential for capturing and filtering run-off from properties into waterways, however the size of these setbacks should depend on:

- Infiltration rate of the soils
- Risk of high intensity rainfall
- Slope of the land
- Sensitivity of the receiving environment

In some areas, this may mean a 5 m setback is insufficient, while in other areas a 5 m setback achieves no more improvement than a 1 m setback. On the Canterbury Plains, the risk of run-off into waterways is generally low as the soils are free draining, have low rainfall and the land is flat. In our catchment, setbacks of 1-2 m will adequately capture run-off.

\(^{11}\) Where water quality is deteriorating
\(^{12}\) Water quality in catchment not meeting bottom-line attributes and either improving or no trend
\(^{13}\) Water quality in catchment is meeting national bottom-line attributes and either improving or no trend
We also refer to the MHV Water Waimanu Farm Case Study, which estimates the costs of replacing the fencing and extending the planting to a 5 m setback at $43 per metre of waterway, or $116,000 for the property. This is a significant investment for a farm that is unlikely to result in further improvements in water quality.

The proposed package also does not take into consideration the loss of good will with farmers who have invested heavily in their time and capital to adequately mitigate run-off on their property, but whom have an average less than 5 m. Where risks are adequately addressed through Farm Environment Plans and Audits, farmers should only need to extend their setback areas when fences are due for replacement (e.g. 20 years).

Proposed Relief – Setback Distance and Fences
ALIL’s preferred relief is for the NES to set setback limits based on a risk matrix, which takes into consideration the major drivers of run-off on a property. We proposed the following setbacks based on risk:

- Low Risk: 1 m
- Medium Risk: 3 m
- High Risk: 5 m

Furthermore, we propose existing fences with sufficient setback distances are only moved at the end of the life of that fence.

Controlling intensive winter grazing

_Please refer to questions 69-70 on page 81 of the discussion document_
ALIL support DairyNZ’s submission on these matters.

Feedlots and stock holding areas

_Please refer to questions 71-75 on page 81 of the discussion document_
ALIL support DairyNZ’s submission on these matters.

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