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Dear Raewyn

Draft Canterbury Water Management Strategy

I am strongly supportive of the overall purpose of the Canterbury Water Management Strategy; to arrive at a process that both protects and enhances the natural environment and provides for the sustainable development and management of Canterbury's water resources. However I believe the governance and management processes outlined in the *Draft Canterbury Water Management Strategy* will not result in effective and durable decisions and will therefore require major modifications before they are finalised and enacted. The following comments and recommendations are offered in the belief that if acted upon they will result in a more sustainable, robust and effective governance and management system.

Consultation

As outlined in Annex D there has been a significant consultation process to arrive at the principles that should underpin the CWMS. In stark contrast just three weeks have been allowed for consultation on the governance and management structure. Such haste can only result in poorly thought out and articulated proposals. Unfortunately the evidence for the inadequacy of the current proposal is present in every section of the document.

Further many points that were made during the consultation on the principles have not been acknowledged or dealt with in the Draft CWMS. Some of the more significant issues that do need to be dealt with include:

- The need for further research in line with the precautionary principle before any major decisions are made
- Emphasis on the common, public ownership of water. Any proposals should not allow for trading of water. Any "unused" water from a consent should be returned to, or more accurately allowed to stay in, the public commons.
- Huge dissatisfaction with the lack of monitoring and enforcement in the present regime is not reflected in any substantial enforcement proposals in the draft CWMS (see recommendation 7)
- The strongly held view that the CWMS should make a strong statement for the preservation of all remaining natural ecosystems, habitats and natural communities as a minimum threshold is not reflected in the draft CWMS.

Recommendation 1: That the governance and management structure be subject to widespread consultation before it is finalised. This is unlikely to be feasible by the end of October 2009. A revised timetable is necessary to ensure all stakeholders are comfortable with the proposed management and governance structure.

Decision Making

It is not clear from the DCWMS at what level the various decisions are to be made with regard to the various aspects of the strategy. Commentary on pages 11, 12 and 120 makes it clear that the Zone Water Management Committees (ZWMC's) are to have primarily local membership. However close reading of the various sections that deal with ZWMC's fails to make it clear whether they have any decision making authority.

Recommendation 2: That ZWMC's are responsible only for implementing, monitoring, reporting and enforcement/compliance of that part of the CWMS that relates to their zone. All seven of the major infrastructure proposals listed (page 14) have regional and national significance and in the case of those to do with the health of our braided rivers have international significance. Decision making of this significance cannot be allowed to be left to local committees but must be made on a regional or national level.

Ten is far too many ZWMC's for stakeholders to have a reasonable chance of input into all areas where they might have an interest. At present the only stakeholders mentioned are the regional council, TLA's and consent holders/abstractors (and sometimes Tangata Whenua, though not consistently) Other stakeholders should also be specifically represented on ZWMCs. At a minimum all ZWMCs must have representation from environmental interests, conservation interests, recreation interests and Mana Whenua.

Recommendation 3: That there be five ZWMC's and in addition to the stakeholders already listed representative from environmental, conservation, recreation and mana whenua are mandatory on all ZWMCs.

The preference for local representation is ill-considered, as it is the knowledge, commitment and contribution that an individual can make that is important not their post code. By this reasoning many of our best experts in ecology, ornithology, hydrology etc would be excluded simply because they didn't live in zone. The "findings from social science research" (page 120) are not cited so it is difficult to assess the relevance of the implicated research. However from my knowledge of social science and Social Impact Assessment research it is likely such findings only apply to decisions with a strictly local effect-the proper sighting of pedestrian crossings, the management of local reserves, that sort of thing. It almost certainly does not to apply to decisions about internationally significant wild, braided rivers and their indigenous inhabitants. In such cases any concept of "self governance" must take in regional and national communities.

The membership of the Regional Water Management Committee (RWMC) and the National Tripartite Forum (NTF) also need some specificity around the stakeholder representation. Recommendation 3 above applies to the membership of the RWMC and the NTF.

Legislative Implications

The sections on legislative implications are vague in the extreme (see for instance page 47). Some very ambitious claims are made on behalf of the CWMS without any clear indication of the legislative means to carry them out. For example on page 51 it states that "new water consents...will be conditional upon compliance with implementation programmes that specify environmentally sustainable flow regimes and land management practices tailored to local circumstances and needs". Has anyone thought to tell the Environment Court that its future decisions will be so constrained? Similarly the four dot points on page 15 under the heading Water Use Efficiency are nice aspirations but the legal means of achieving them, particularly for dot points one and three, is unclear.

The Resource Management Act (RMA) gives legal "standing" to all New Zealanders. This means that for those aspects of the RMA that provide for public input into decision making any person can have input into the decision making process in line with the relevant provisions. The apparent attempt in the DCWMS to

limit some decisions to the membership of locally drawn ZWMCs would therefore appear of doubtful legal validity unless it is clarified under which statute such arrangements are to be made.

The RMA provides two main ways in which water can be allocated; regional plans and consents. Neither of these has proved effective in Canterbury in constraining water takes or ensuring allocation to the highest value use. That being the case a more serious consideration of the required legislative changes is necessary before the CWMS can have any creditability. In the absence of a clear statement of the legislative basis for the CWMS it is not clear if and how the proposals in the DCWMS would be an advantage on more imaginative, assertive and rigorous use of the measures that are already in the RMA.

Recommendation 4: That the CWMS is not finalised until it is established that there is a legal basis for carrying out the practices listed in various parts of the document. On this basis alone finalising the strategy in October 2009 would seem bordering on the reckless and certainly not very wise.

Funding Options

It is crucial that the source of funding for environmental protection, enhancement and restoration is established before any major infrastructure proposals are considered. Water management is a classic case of where the user, benefiter should pay. I am in favour of a water management fee as the appropriate charging mechanism as it internalises costs to those who benefit most and allows for price signals to be applied via reductions in the charge(s) for performance of good water and land management practices and water conservation measures. I am strongly against externalising costs to rate payers and/or tax payers. Given the difficulty Environment Canterbury has recently had in establishing a sensible water management charge that goes some way to acknowledging the private benefits abstractors have received from the use of a public resource I am of the firm opinion an internalised funding mechanism must be established before any major infrastructure work is begun

Recommendation 5. That work begins immediately on establishing an internalised funding mechanism to ensure that all of the targets outlined in Annex G 1-9 are capable of being met. Work on major infrastructure should not begin until an adequate funding mechanism is in place.

Resolving Conflicts

Annex G 1-9 sets up some very ambitious targets across a wide range of outcome areas. It is inconceivable that these will be achieved according to their respective timetables without some conflicts. It is equally unlikely that the mechanisms proposed will be effective, on their own, in resolving any conflicts that arise. The ECAN experience of trying to establish an operational Regional Natural Resources Management Plan should be illustrative enough of the difficulty of resolving contradictory outcomes without a well thought out conflict resolution process. Ultimately any conflicts that can't be solved will be decided in the Environment Court. Nonetheless in the spirit of the intentions of the CWMS, community-level conflict resolution should be attempted before resorting to the courts.

Recommendation 6. That wide consultation on a suitable conflict resolution process begins immediately. The CWMS should not be finalised without a feasible conflict management system being in place.

Compliance, Redress and Cascading Consequences

I agree with the idea that incentives and education are the preferred way of achieving necessary changes in behaviour. However I do not agree that they should stand on their own. The experience with dairy farmers in the region shows that a large proportion has responded to incentives and education by improving their practices and complying with their resource consents. However Environment Canterbury's own reports indicate around 20% of dairy farmers are, or have been, in breach of their resource consents. To date, there have been a very limited number of prosecutions or other effective sanctions imposed on consent holders in

breach. If the ambitious targets outlined in Annex G are to be achieved there needs to be, in addition to education and incentives, compliance and redress mechanisms added to each of the activities 1-9.

Recommendation 7. That effective compliance mechanisms, disincentives and restorative or redress mechanisms be developed for each of the activities outlined in Annex G 1-9.

Unclear Principles and Priorities

The list on page 9 is neither principles nor priorities. They are simply a list of single words or phrases that fail to provide sufficient description to be sure what they mean. When read in conjunction with Annex B further confusion results as there appears to be little commonality between the two. At the very least all the principles listed in the Fundamental Principles in Annex B should be given the status of Primary Principles as that is clearly the thrust of the majority of the public submissions. There is no justification for some principles being given primary status and some being given secondary status. Further in the list on page 9 the principles do not address the priority issues and the priority issues do not describe what is intended with sufficient detail to be sure that the intention is to provide protection for the resources potentially at risk. Single words and phrases like environment, sustainable management, and tangata whenua are meaningless without some explanation of what they mean in this context.

Recommendation 8: That the lists on page 9 and Annex B be harmonised and that all key words and phrases be given a clear meaning that indicates what the public can expect from their being given priority or principle status.

Water Quality Standards

The DCWMS correctly identifies water quality standards as a key issue to be dealt with and further identifies maintaining drinking water quality as a high priority. I agree with both of these ideas. However, I do not believe that the drinking water quality standard for nitrates is the appropriate standard for maintaining ecosystem health and biodiversity protection. Fertilisation effects due to nitrate acting in conjunction with other nutrients such as phosphorous and trace nutrients have been shown to occur at concentrations far lower than the drinking water standard. Nutrient concentrations may interact with several other factors that alter the ultimate effects on surface waters. The ANZECC water quality guidelines present a structured approach for consideration of the overall loading of nutrients in freshwater systems in New Zealand that should be considered when nitrate levels exceed 0.17 mg/L.

Recommendation 9: That water quality standards across all nutrients be developed to ensure ecosystem health and protection of biodiversity.

Thank you for the opportunity to comment on the Draft Canterbury Water Management Strategy.

Yours sincerely

Bruce Coleman