
POST ENGAGEMENT PREFERRED OPTION UPDATE REPORT TO DISTRICT PLAN COMMITTEE

DATE: 26 November 2018

TOPIC NAME: Water

SCOPE DESCRIPTION: NE006: Water

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EXECUTIVE SUMMARY

<i>Summary of Preferred Option Endorsed by DPC for Further Engagement:</i>	<i>That the water provisions are updated to remove overlaps and duplications with Environment Canterbury regional plans, and that some additional specific provisions are included to address identified issues in the District.</i>
<i>Summary of Feedback Received:</i>	<ul style="list-style-type: none">• General support for the preferred options from many stakeholders and the public.• That the Council manage land use activities, particularly agriculture/dairying, water abstraction, stock access to waterways and gravel extraction to stop the further degradation of the region's waterbodies• That the current lists of waterbodies where esplanade reserves and strips apply is sufficient.• Conflicting feedback on the need to increase the width of esplanade reserves or strips.• That there is no need for the District Plan to contain provisions that manage drains and reclamations in relation to Te Waihora /Lake Ellesmere as this is a Regional Council function.
<i>Recommended Option Post Engagement:</i>	<i>That the preferred option previously endorsed by DPC be progressed to the drafting and Section 32 evaluation phase.</i>
<i>DPC Decision:</i>	



1.0 Introduction

1.1 Overview of Preferred Option Endorsed by DPC

The changes recommended as the preferred option include updating existing objectives, policies and methods (including rules) to remove areas of overlap and duplication, and to tighten and focus them so that they relate more specifically to functions of the Selwyn District Council.

Proposed changes to the current District Plan approach would be to:

- Focus the Township strategy on managing water quality effects of land use development adjacent to rivers and streams, and maintaining natural character, ecological values and amenity values of streams and rivers close to or in Townships. The existing objectives and policies in relation to these matters need to be tightened and focused to give effect to this.
- Include relevant water related objectives and policies in the relevant Natural Environment section of the District Plan, and provide a cross-reference to the Subdivision Chapter in relation to water supply, sewerage disposal and stormwater management for new residential development.
- Maintain the current focus of the Rural volume strategy, but include additional policy and rule support for the improvement of Te Waihora, including for example:
 - rules to reflect the requirements of the National Water Conservation (Te Waihora/Lake Ellesmere) Order 1990 in relation to drainage or reclamation of the bed of the lake;
 - policies and rules to provide further support for riparian management in the Cultural Landscape/Values Management Area identified in the Canterbury Land and Water Regional Plan (which includes a 'lake area' adjacent to the lake itself, and a 'river area', a 20m strip on each side of a series of identified rivers and streams);
 - policies and rules to enable the lake restoration activities anticipated by Policy 11.4.20 of the Canterbury Land and Water Regional Plan;
 - policies and rules to enable the catchment restoration activities (such as those to protect springheads, and protect, establish or enhance riparian margins) anticipated by Policy 11.4.21 of the Canterbury Land and Water Regional Plan;
 - policies and rules to enable the managed aquifer recharge and targeted stream augmentation anticipated by Policy 11.4.22 of the Canterbury Land and Water Regional Plan.
- Consider widening the esplanade reserves/strips for the rivers listed in Appendix 12 and 17 of the Operative District Plan (which define waterbodies to which esplanade reserve and esplanade strip provisions will apply on subdivision), subject to an analysis of both the costs of this on affected landowners and the requirements of the Council's Open Spaces Strategy;
- Review which esplanade instrument (reserve or strip) is appropriate for the Hororata and Waikirikiri/Selwyn Rivers;
- Add the Rakaia and Tentburn Rivers to the list of waterbodies to which esplanade reserves and strips apply;

- Review the planning framework associated with the reasons for which an esplanade reserve or strip is taken to ensure that the policy reasons¹ are accurately reflected in the relevant rules and associated Schedules;
- Clearly identify matters that are the primary responsibility of Environment Canterbury (for example, management of the effects of land use on water quality, management of activities in the beds of lakes and rivers) or are addressed by other SDC strategies or bylaws (such as the Stormwater and Drainage Bylaw 2018) and direct District Plan users to the appropriate regional planning documents.

2.0 Summary of Feedback Received

2.1 Partner/Stakeholder Feedback

Feedback in support of the preferred approach endorsed by the District Plan Committee has been received from Environment Canterbury, the Canterbury District Health Board, Federated Farmers and the Waihora Ellesmere Trust.

Federated Farmers provided general support to the preferred approach but were undecided on whether additional rules to manage drains and reclamations in accordance with the National Water Conservation Order for Te Waihora are required, noting that the Water Conservation Order is the responsibility of Environment Canterbury, who would have provisions to manage these concerns. They also noted that Selwyn District Council holds a resource consent from ECan to maintain and manage the drains in the district, which would have conditions attached to this consent. They were of the view that rules should not be written to support what is essentially a Three Waters operational matter.

Ellesmere Sustainable Agriculture Incorporated considers that matters relating to water in the Selwyn District should be controlled by the regional authority, noting that further regulation may detract from stakeholders actively taking part in these projects and more could be gained from directing funding and stakeholder input into on-ground activities than creating more rules.

Ellesmere Sustainable Agriculture Incorporated also noted that the existing waterways listed in the operative District Plan relating to esplanade reserves and strips does not require further waterways added, including along the coastal area, and no further width expansion of reserves and strips is supported. Reasons provided for this position included for on-farm biosecurity and health and safety requirements.

2.2 Public Feedback

Public feedback predominantly indicated a desire for Council to manage land use activities, particularly agriculture/dairying, to 'stop any further degradation of the region's springs, streams, rivers, lakes and underground water'. Feedback also indicated there should be a halt to any further water takes for irrigation from any water source, as the District's water is now seriously over allocated.

¹ Current policies provide for the creation of esplanade reserves or strips to maintain and enhance water quality, riparian vegetation, and the natural character of waterbodies, where appropriate.

Other feedback identified the need for the Council to manage the invasion of weeds in waterways, the disturbance of waterways by gravel extraction and off road recreational vehicles, and to manage stock access to waterways.

Public feedback also noted that there is a need to increase marginal strips and esplanade reserves to ensure water quality, natural character, ecological, cultural, and recreational and amenity benefits are greatly improved.

3.0 Analysis of Feedback Received

3.1 Rules to Manage Drains And Reclamations and the National Water Conservation Order for Te Waihora:

- The Te Waihora/Lake Ellesmere Water Conservation Order is the responsibility of Environment Canterbury, who would have provisions to manage these concerns.
- Selwyn District Council holds a resource consent from Environment Canterbury to maintain and manage the drains in the district, which would have conditions attached to this consent. Rules should not be written to support what is essentially a Three Waters operational matter.

Analysis

While the provisions of the Te Waihora/Lake Ellesmere Water Conservation Order 1990 (the Water Conservation Order) primarily relate to the functions of Environment Canterbury, s75(4)(a) of the Resource Management Act 1991 (the Act) also sets out that the Selwyn District Plan must not be inconsistent with a Water Conservation Order.

Clause 6 of the Water Conservation Order notes that a resource consent shall not be granted under section 9 of the Act (restrictions on the use of land) if the effect would be that the provisions of the Water Conservation Order could not be observed.

The Water Conservation Order recognises that Te Waihora/Lake Ellesmere has or contributes to the following values which require protection:

- Habitat for wildlife, indigenous wetland vegetation and fish; and
- Significance in accordance with tikanga Maori in respect of Ngai Tahu history, mahinga kai and customary fisheries.

Conclusion

The feedback notes that Council has consent to manage and maintain the district's drainage infrastructure. However, the Council has only lodged consent with Environment Canterbury, with that consent currently on hold.

The fact that the Council, and other landowners who have drainage infrastructure on their land may be required to obtain resource consent for breaches of the Land and Water Regional Plan

may or may not be pertinent when considering whether the District Plan also needs District Plan provisions to ensure the Plan is not inconsistent with the Water Conservation Order.

Therefore, during the 'Drafting and Section 32 Evaluation Phase' of the District Plan Review, the Project Team will continue to consider the extent to which provisions are required in the District Plan to manage activities to ensure consistency with the Water Conservation Order, and which do not also duplicate Regional Council functions.

3.2 Esplanade Reserves/Strips and Listed Waterways:

- Existing waterways listed in the operative District Plan relating to esplanade reserves and strips does not require further waterways to be added. The provision for esplanade reserves or strips in the coastal environment is not supported. The reason cited is for biosecurity and health and safety requirements. Risk management objectives (of the adjacent properties) effectively limit access along high risk areas such as waterways.
- No further width expansion of esplanade reserves or strips is supported.
- There is a need to increase esplanade reserves and strips to ensure water quality, natural character, ecological, cultural, and recreational and amenity benefits are greatly improved.

Analysis

The Baseline Planning Assessment concluded that the existing list of waterways where esplanade reserves and strips was adequate and did not require amendment, other than adding the Rakaia and Tentburn Rivers to that list.

The Baseline Planning Assessment recommended that the width of any esplanade reserve or strip established along the listed rivers should be reviewed, and that the preferred instrument (esplanade reserve or esplanade strip) for the Hororata and Waikirikiri/Selwyn Rivers should be reviewed.

Conclusion

The 'Drafting and Section 32 Evaluation Phase' of the District Plan Review, will analyse:

- Whether adding additional rivers to Appendix 12 and 17 is justified or not;
- Whether there is justification to increase the width of esplanade reserves and strips established along the listed rivers;
- Which is the preferred instrument (esplanade reserve or strip) that will apply to the Hororata River, or the Waikirikiri/Selwyn River or part thereof;
- Whether there is a need for the policy framework to recognise that biosecurity, and health and safety issues are pertinent matters to be considered when assessing whether to take an esplanade reserve or strip at the time of subdivision.

3.3 Management of Land Use Activities, Activities in Waterbodies and Water Abstraction:

- Manage land use activities, particularly agriculture/dairying, to 'stop any further degradation of the region's springs, streams, rivers, lakes and underground water'.
- Halt to any further water takes for irrigation from any water source.
- Manage the invasion of weeds in waterways.
- Manage the disturbance of waterways by gravel extraction and off road recreational vehicles.
- Manage stock access to waterways.

Analysis

The matters to which this feedback refers to are all the responsibility of the Regional Council, and managed through Land and Water Regional Plan, or the Canterbury Regional Pest Management Plan.

Conclusion

No change to the preferred approach endorsed by the District Plan Committee is required.

4.0 Recommended Option Post Engagement

The Project Team recommends that:

- The Preferred Option previously endorsed by DPC progresses to the 'Drafting and Section 32 Evaluation Phase'.