

Proposed Change to the permitted on-site sewage effluent discharge to land rule

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| Rule |
| 7 On-site discharge of sewage effluent |
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The discharge of any sewage effluent into or onto land, other than septage, from on-site sewage treatment and disposal systems is a **permitted activity**, provided that **all of** the following conditions are met:

- a) the discharge does not exceed:
 - i) a maximum of 2000L per day for secondary treatment systems;
 - ii) a maximum of 14,000L per week for other systems;
 - iii) a maximum of 1.3 cubic metres of greywater per day;
~~2000 litres per day (calculated as a weekly average);~~
- b) the discharge is not within:
 - o 50m of any surface water body;
 - o 50m of any coastal water;
 - o ~~100m~~ 50m of any bore or well used for potable water supply;
 - o 20m of any drain;
 - o 1 metre of the groundwater table; and
unless the system was installed before 1998 and is not contaminating water;
- c) For systems other than soak pits, the hydraulic design loading rates for a disposal field shall not exceed those recommended for Category 1-3 soils in AS/NZS1547:2000 'On-site Domestic Waste Water Management', unless the system was installed before 1998 and is not contaminating water;
- d) the greywater discharge is not within:
 - o 20m of any surface water body;
 - o 20m of any coastal water;
 - o 20m of any bore or well used for potable water supply;
 - o 0.6m of the groundwater table;
- e) ~~the system is designed with a minimum of 24 hours retention time;~~
- d) there is no ponding, ~~flooding~~, runoff, or surface breakout;
- e) no stormwater enters the system;
- f) the discharge does not pose a risk to human health, and is not noxious, dangerous, offensive or objectionable to such an extent that it has or is likely to have an adverse effect on the environment;
- g) for systems which ~~discharge into land~~ use a disposal field, the system is designed to provide for even distribution of effluent to the entire filtration surface ~~of the disposal field;~~
- h) for systems which discharge *onto* land:
 - The discharge is not by way of spray irrigation, or otherwise produces any aerosol discharge to air;
 - The effluent is evenly distributed over the entire area of the disposal field;
 - The effluent conforms to the following standard:
 - BOD5 not greater than ~~70~~ 20mg/litre;
 - Suspended solids not greater than 30 mg/litre;
 - Faecal coliforms not more than 1000/100 mls.

Notes:

1. Discharges from pit privies are covered under Rule 7.

1) The volumes stated in condition a) are equivalent to the amount of effluent produced by approximately 10 people.

2) For condition b), the setback distance from the groundwater table should be based on the maximum water table level of the groundwater.

3) 2. The Regional Council will accept as compliance with condition (f) an on-site sewage treatment and disposal system designed, constructed, operated and maintained in accordance with The

New Zealand Manual of Alternative Wastewater Treatment and Disposal Systems, Volume II, Part A: On-Site Wastewater Disposal From Households and Institutions Technical Publication No 58, ~~Second~~ *Third* Edition (Gunn, 1994 *2004*), *AS/NZS1546 2008, Parts 1, 2 and 3 'On-site Domestic Waste Water Treatment Units', or AS/NZS1547:2000 'On-site Domestic Waste Water Management'*.

- 4) ~~3.~~ Condition (g) refers to both gravity-fed and dosed loading systems.
- 5) When selecting a discharge site, it should be considered whether the site for the system is subject to slippage, subsidence, erosion or inundation from any source.
- 6) For systems which discharge onto land, the standards required in condition a) apply to the discharge at the outlet of the treatment plant, prior to discharging onto land.

Proposed Change to Rule 78, condition b) ii)

Rule 7 Discharge from pit toilets 8.

The discharge of any sewage into or onto land, other than septage, from pit toilets or long-drop toilets is a **permitted activity**, provided that all of the following conditions are met:

- a) The discharge does not exceed 400 litres per day (calculated as a weekly average);
- b) The toilet is not sited within:
 - i) 50m of any surface water body or coastal water;
 - ii) 50m ~~100m~~ horizontally of any bore or well used for potable water supply, and there are no adverse effects on any take of water for human consumption;
- c) No stormwater or runoff enters the system;
- d) Effluent from the toilet does not enter any surface water body or coastal water;
- e) Waste in the toilet does not accumulate to closer than 30cm to the ground surface;
- f) The discharge does not pose a risk to human health, and is not noxious, dangerous, offensive or objectionable to such an extent that it has or is likely to have an adverse effect on the environment.

Proposed Change to add a Note to Rules 41 and 42

Rule 41. Take and use of groundwater

The taking and use of groundwater is a **permitted activity** if all the following conditions are met:

- (a) The total take does not exceed 2 litres per second, up to a maximum volume of 50,000 litres per day;
- (b) Any well shall be located not less than 20 metres from any adjacent well or the Coastal Marine Area and from any septic tank disposal field or effluent treatment ponds or silage storage areas;
- (c) Any bore shall be located not less than 200 metres from any adjacent bore;
- (d) No existing lawful take of water is adversely affected as a result of the taking; and
- (e) The council is informed in writing of the location, expected rate and frequency of the take prior to the take occurring and contact details of the person taking; and
- (f) The bore or well casing and headworks prevent:
 - (i) The infiltration of contaminants;
 - (ii) The uncontrolled discharge or leakage of water to the surface and between aquifers.

Notes: For the purposes of Rule 41 a well is defined as being less than 20 metres deep as measured from ground level, while a bore is defined as being greater than 20 metres deep as measured from ground level.

The Council has best practice information available on the materials and construction of wells and bores to prevent contamination. The Council will from time to time monitor and verify the location, frequency and rate of take as appropriate.

Note: The 20m setback from septic tank disposal fields applies unless the bore or well is for potable use, then a greater separation distance is required under Rule 77 for permitted on-site sewage effluent discharges to land.

Rule 42. Bore development and pumping tests

The taking and use of groundwater for bore development and pumping tests is a ***permitted activity*** if all the following conditions are met:

- (a) Any well shall be located not less than 20 metres from any adjacent well or the Coastal Marine Area or from any septic tank disposal field or effluent treatment ponds or silage storage areas;
- (b) Any bore shall be located not less than 200 metres from any adjacent bore;
- (c) No existing lawful take of water is adversely affected as a result of the taking.

Note: The 20m setback from septic tank disposal fields applies unless the bore or well is for potable use, then a greater separation distance is required under Rule 77 for permitted on-site sewage effluent discharges to land.

RMA Section 32 Report on Proposed Change to the permitted stormwater discharge rules – September 2010

Section 32 of the Resource Management Act 1991 (RMA) requires an evaluation of the objectives, policies, rules and other methods in a proposed regional plan before it is publicly notified for submissions. This report is the Section 32 evaluation of the Proposed Change to the permitted on-site sewage effluent discharge to land rule.

Background

A review of the permitted stormwater discharge to land rule has come about as a result of Council's decision to merge the Discharge to Land, Land and Riverbed, and Water Management Plans into one plan. The Discharge to Land Plan was made operative seven years ago, so in terms of RMA plan timeframes the 10 year review is due in 2012. Stormwater discharges to land are one of the most common discharges to land.

The main problem has been with understanding which rules apply to which situations, as there is some overlap with rules for stormwater discharges from earthworks, and discharges into and from drains, to land and water. The wording of the current rules is mostly sound; some minor changes are suggested to fill in gaps and improve the links between the rules.

As a result of reviewing permitted Rule 5 (renumbered Rule 80), some minor consequential changes are also proposed to permitted earthworks and discharge to water rules, and the controlled rule for stormwater discharges to land. A copy of the proposed changes with new rule numbers are attached at the end of this report.

Section 32 Tests

The following is an assessment of the RMA Section 32 requirements.

S32(3)(a): Are the objectives the most appropriate way to achieve the purpose of the Act?

This is not applicable as no new objectives are considered necessary as part of this plan change. The existing objectives relevant to stormwater discharges are sufficient, and the proposed changes to the rules are in keeping with Objectives 3.2.1, 6.2.4, 8.2.1, and 13.2.1 of the Merged Plan.

S32(3)(b): Are the policies, rules, or other methods the most appropriate (with respect to efficiency and effectiveness) for achieving the objectives?

The proposed changes to the rules will make them more efficient and effective by addressing potential adverse effects that have not previously been covered, clarifying what the rules cover, and removing unnecessary parts.

The titles of Rules 79 and 86 are changed to clarify that the rule applies to stormwater runoff. Runoff on or from a site where earthworks, vegetation disturbance or development occurs can have adverse effects the same as a discharge because of the regional rainfall levels. A minor change is made to the beginning of Rule 48 to refer to "stormwater runoff" for consistency with using these terms, and a definition of stormwater runoff is added to the Glossary.

With respect to Rule 79, there has been some confusion around the exclusion of roads and footpaths from the rule. The beginning of the rule is reworded to address this. Changes to condition a) cover potential effects which weren't previously covered, and make the condition consistent with conditions for stormwater discharges into water. The current condition b) is unnecessary as stormwater discharges and runoff/flowpaths to water are now covered by the permitted rule for discharges from drains into water, and the earthworks rules.

Changes to the controlled Rule 86 for stormwater discharges are consistent with changes to the permitted rule.

The proposed new condition in Rules 61, 79 and 86 addresses a potential adverse effect which is occurring more often with rural-residential, unreticulated subdivisions, whereby extra drains are added to existing pilot drains. This increases volumes or velocity of water being channelled and discharged into main drains, which can affect downstream properties cumulatively. The new condition restricts any increase in flow in the receiving water body so it doesn't exceed the carrying capacity of existing infrastructure. This is the same as condition j)(2) of Rule 3 for new drain formation associated with permitted earthworks. The new condition should help to target potential flooding effects from new discharges or new drains, as dischargers may need to check capacity specifications for their drain, and so source discharges can be more easily traced.

The change to the beginning of Rule 61 clarifies that the rule applies to stormwater discharges into drains containing water, as well as discharges from drains to water bodies. Adverse effects can occur from discharges into drains.

An amendment is proposed to the condition in the permitted earthworks rules for "no conspicuous deposition of sediment on the bed of any waterbody", so that the condition also restricts sedimentation or other effects on adjoining land. The amendment fills a gap in the plans, and should give more certainty about dealing with sediment-laden runoff.

Cross-references clarify the links between rules relating to stormwater discharges.

S32(4)(a): What are the benefits and costs of the policies, rules or other methods?

The main benefit of the changes to the rules will be better environmental outcomes. Better management of individual stormwater discharges will help to reduce the flood hazard risk. Not exceeding the infrastructure capacity will avoid cumulative adverse effects of multiple stormwater discharges overflowing downstream. The proposed changes to the rules make it clear to contractors and landowners what the standards are for managing sediment and stormwater and meeting the permitted rules.

The cross-references will enable Plan users to more easily find which rules apply to various stormwater activities.

The changes to the rules may require more care being taken by contractors, builders, and developers to control sediment, and extra cost and time to check the capacity specifications of existing drains before discharging stormwater into them from a new subdivision or dwelling. If the new provisions can't be met, there will be consent costs for contractors and landowners. Any additional time and costs are not unreasonable, compared to the potential for adverse effects.

The proposed changes are in effect no different to current obligations under section 17 of the RMA to avoid, remedy, or mitigate adverse effects. Compliance with the new provisions will avoid more costly enforcement and mitigation action or damage remediation if good practice sediment and stormwater discharge control is carried out. The changes reflect a user pays approach rather than other ratepayers bearing the cost to mitigate adverse effects of these activities. This approach is consistent with the principles of the Local Government Act.

S32(4)(b): What is the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods?

Information available indicates the proposed changes are warranted. Sedimentation on land or in water is one of the main types of complaint received by Council. Fewer complaints are received about stormwater discharges, but there has been enough confusion in the past over how the stormwater rules apply, and how overflowing rural drains are managed, to prompt the changes.

If the proposed changes are not adopted, the status quo will continue under the current rules. This continues the uncertainty about the potential future effects of stormwater discharges into rural drains and sediment loss, and whether these will become an increasing hazard risk. In the last 5-7 years there has been increased rural-residential development around the outskirts of existing towns and settlements. Residential growth has spread into foothills, which means there is a higher risk of sediment runoff down slopes, and increased velocity of stormwater entering drains. Some issues with stormwater overflow in drains can be dealt with under the Drainage Act 1908, but this legislation has limited scope. If the changes to the rules aren't made, complaints will continue to be received and investigated at increasing cost to Council and ratepayers.

Since climate change predictions are for more intense rainfall and storm events, the proposed changes will enable potential adverse effects to be better managed in the future.

Proposed Changes to Rules for Stormwater Discharges

Rule 1. Humping and hollowing, flipping, or v-blading outside riparian margins

Humping and Hollowing, Flipping, or V Blading in the Non-Erosion Prone Area (less than 12° slope) outside of riparian margins are **permitted activities** if **all** of the following conditions are met:

- (a) (1) For Humping & Hollowing and Flipping, the area of the activity does not exceed 5 Hectares per landholding in any continuous 12 month period; and
- (2) For V-blading **either**:
 - (i) The land area for new works does not exceed 10 Hectares per landholding in any 12 month period; **or**
 - (ii) The activity is undertaken on land that has previously been V-bladed; and
- (b) The activity must not cause the visual clarity of any receiving water to decrease by more than 40%, as measured by black disc beyond 12 times the river's width or 200 metres of the activity, whichever is the lesser; and
- (c) No soil or debris is placed directly in any river or lake bed; and
- (d) There is no conspicuous deposition of sediment on the bed of any water body, or on land beyond the boundary of the subject property; and

Make the above same change to:

- Rule 3 Earthworks in the Non Erosion Prone Area, outside riparian margins
- Rule 4 Earthworks in Erosion Prone Area One, outside riparian margins
- Rule 5 Earthworks in Erosion Prone Area Two, and the Greymouth Earthworks Control Area, outside riparian margins
- Rule 6 Earthworks for the purpose of maintenance or repair
- Rule 8 Vegetation Disturbance in Erosion Prone Area One, Two, or the Greymouth Earthworks Control Area and outside any riparian margins

Rule 48. Diversion of contaminated and uncontaminated runoff

The diversion (whether in pipes, constructed channels or otherwise) of natural **stormwater** runoff that is not contaminated, or of runoff that is contaminated to a water treatment system, is a **permitted activity** provided:

- (a) For the non-contaminated water:
 - (i) The diversion does not cause or exacerbate: flooding or ponding of water on another person's property, erosion, land instability, sedimentation or property damage; and
 - (ii) The diversion does not affect any natural wetland;
 - (i) The diversion is incidental to permitted or consented earthworks; and
 - (ii) The diversion does not relate to the diversion of runoff from an area greater than 20ha.
- (b) For contaminated water:
 - (i) The water is diverted to a water treatment system or plant; and
 - (ii) The diversion is incidental to permitted or consented earthworks.

Explanation

Rules 44, 45, 46, and 47 provide for activities that will result in no more than minor effects and avoid the need for a resource consent. Rule 48 reflects the requirements of the Grey River Water Conservation Order.

Rule 61. Discharge from any drain to a water body

The discharge from any drain to a water body, *or another drain beyond the property boundary*, is a **permitted activity** if all the following conditions are met:

- (a) The discharge does not cause or exacerbate flooding of another person's property, erosion, land instability, sedimentation or property damage; and
- (b) Beyond a mixing zone of 12 times the width of the receiving water body, or 200 metres, whichever is the lesser, the discharge does not give rise to the following effects:
 - (i) The production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials;
 - (ii) Any conspicuous change in the colour or visual clarity;
 - (iii) Any emission of objectionable odour;
 - (iv) The rendering of fresh water unsuitable for consumption by farm animals; or
 - (v) Any significant adverse effects on aquatic life; or
 - (vi) Adverse effects on any take of water for human consumption.
- (c) Any discharge to the Rahu River, Station Creek, Wooley River or Buller River upstream of Te Kuha must meet the requirements of Clause 11 of the Buller River Conservation Order (see Schedule 4).
- (d) The discharge does not increase the flow in the receiving water body to the extent that it exceeds the carrying capacity of existing infrastructure.

~~Note: Permitted activity Rule 1 in the Land and Riverbed Plan must also be met for humping and hollowing.~~

Cross reference: Stormwater discharge or runoff containing sediment from earthworks that enters a waterbody is dealt with under the permitted earthworks rules (Rule 3).

Rule 79. Discharge of stormwater runoff

The discharge of collected stormwater runoff into or onto land is a **permitted activity** provided that all of the following conditions are met:

- a) The discharge does not cause or exacerbate erosion, scouring, land instability, sedimentation or ponding beyond the boundary of the subject property;
- b) The discharge does not contain any hazardous substances or wastes;
- c) Where the discharge into or onto land enters water, it does not increase the flow to the extent that it exceeds the carrying capacity of existing drainage infrastructure.

Cross-references: Point-source stormwater or runoff containing sediment from earthworks that flows or is discharged to land or enters a waterbody is dealt with under the permitted earthworks rules (Rule 3). Stormwater discharges directly into water are dealt with under Rule 61.

Rule 86. Discharge of stormwater runoff not permitted by Rule 80

The discharge of any contaminant into or onto land in connection with the discharge of stormwater *runoff* is a **controlled activity** unless permitted by Rule 80, and shall comply with the following standards and terms:

- ~~a) there is no direct runoff into, or contamination of, water bodies, groundwater or coastal water;~~
- b) the discharge does not cause ~~siltation~~, sedimentation, erosion, scouring, land instability, ponding, or flooding;
- c) stormwater runoff from the facility or site containing hazardous substances is collected and discharged via a containment and treatment device or system.

d) Where the discharge into or onto land enters water, it does not increase the flow in the receiving water body to the extent that it exceeds the carrying capacity of existing drainage infrastructure;

The Regional Council has reserved control over the following matters:

- a) the location, method, rate, and quality of the stormwater discharge;
- b) design and operation of the treatment system;
- c) effects of the discharge on the receiving environment;
- d) stormwater management and spill contingency plans;
- e) monitoring requirements;
- f) the duration of the resource consent;
- g) review conditions of the resource consent.

Glossary

Stormwater runoff refers to the overland flow of rainwater not contained within or forming part of a water body.

RMA Section 32 Report on Proposed Changes to Other Objectives, Policies, Rules, and Methods – September 2010

Section 32 of the Resource Management Act 1991 (RMA) requires an evaluation of certain provisions in a proposed regional plan before it is publicly notified for submissions. This report is the Section 32 evaluation of proposed changes to various objectives, policies, rules and methods in the Proposed Regional Land and Water Plan. A copy of these proposed changes are attached at the end of this report.

Background

Council has decided to merge the Discharge to Land, Land and Riverbed Management, and Water Management Plans into one plan. While the merge is primarily to reformat the three plans into one for greater efficiency and ease of use, it has provided an opportunity to fine tune the plans and make some minor improvements.

A considerable amount of background information and some appendices have been removed, mostly from the Discharge to Land Plan as this is the oldest of the three plans. Other main changes proposed are to the Poutini Ngai Tahu chapter, and certain introductions and explanations. Section 32 of the RMA does not require that these parts of the Plan be evaluated, so they are not addressed in this report. Additionally, Section 67 of the Resource Management Amendment Act 2005 no longer requires plans to include issues, principal reasons for adopting provisions, anticipated environmental results, or cross-boundary processes, so these are not included in the merged Plan.

More substantial changes are proposed to the Lake Brunner provisions, on-site sewage effluent, and stormwater rules. These are discussed in separate Section 32 reports.

Note that for the purposes of this Section 32 Report, text proposed to be added to the merged Plan is shown by italicised and underlined text. Text to be removed from the merged Plan is shown with a line through it. (The Proposed merged Plan will only show new text to be added, and separate, supplementary copies of the existing Plans will show all deletions.)

The provisions in the Proposed Plan have different numbers to the existing Plans. The new numbering is referred to in this report unless stated otherwise.

Section 32 Tests

The following is an assessment of the RMA Section 32 requirements.

Section 32(3)(a): Are the objectives the most appropriate way to achieve the purpose of the Act?

Objectives

No new objectives are proposed as part of the plan change, and two minor changes are made to water quality and contaminated land objectives:

Objective 8.2.1 To maintain or enhance the quality of the West Coast's water.

The change to Objective 8.2.1 is a minor grammatical one and the objective still meets the purposes of the Act.

Objective 16.2.1 To avoid, remedy, or mitigate risks to the environment presented by discharges from contaminated sites land, including risks to human health, social, cultural and amenity values, and soil and water quality.

The term "contaminated land" replaces "contaminated sites" in Objective 16.2.1 to be consistent with new Ministry for the Environment guidelines "Contaminated Land Management Guidelines No. 4: Classification and Information Management Protocols".

Section 32(3)(b): Are the policies, rules, or other methods the most appropriate (with respect to efficiency and effectiveness) for achieving the objectives?

Policies

Changes to several policies are proposed. Most are minor changes to specific words to make the policies clearer, and do not change the intent of the policies. Two policies have more substantial changes, and three policies for discharges of hazardous substances to land, and one policy for the management of solid contaminants are proposed to be deleted. The changes are considered to be appropriate for achieving the objectives for the following reasons:

Policy 5.4.6 4.3.6 Council will promote *require* the use of bridges, culverts, and other methods to avoid regular stock crossing of river beds in intensively farmed areas, where a farmer causes a herd of cattle to cross any river or permanently flowing creek, at any farm raceway crossing, more than ten times in any month for herds larger than 500 cattle, or more than 20 times in any month for herds less than 500 cattle. A crossing is one-way only.

This Policy also applies for dry stock where more than 50 animals cross any river or permanently flowing creek more than 20 times per month.

Explanation

In situations where the construction of a bridge would be unreasonably expensive compared to the effects of the discharge, Council may consider granting a resource consent to a farmer to continue using a ford crossing, based on a detailed assessment of its effects on the environment including:

- **Frequency of use and size of herd;**
- **Measures of contaminant loadings and effects on water colour and clarity;**
- **Likely effects on downstream instream values and other river users;**
- **Any cumulative effects and precedent effects, if applicable; and**
- **Proposed mitigation measures, including farm race re-design.**

Council will monitor the extent to which bridges, culverts and other mechanisms are being used to avoid regular stock crossings of river beds. ~~Before March 2012 Council will review the effectiveness of these mechanisms and existing plan provisions and introduce regulatory or other methods if landholders are not adopting such mechanisms on a voluntary basis.~~

~~A regular stock crossing is where a farmer causes a herd of cattle to cross any river or permanently flowing creek, at any farm raceway crossing, more than ten times in any month for herds larger than 500 cattle, or more than 20 times in any month for herds less than 500 cattle. A crossing is one-way only.~~

Council considers that the circumstances outlined in Policy 4.3.6 will, or will likely, contravene section 15(1) of the RMA. In those circumstances a resource consent would be required to authorise the resulting discharge of contaminants to water.

Since the current Policy (old numbering 5.4.6 in the Land and Riverbed Plan) was first negotiated the Council has introduced a Stock Crossings Policy which now needs to be added to the merged Plan. The new wording of Policy 4.3.6 mostly repeats the Stock Crossing Policy, except for compliance timeframes which are now obsolete. The timeframe in the Explanation for reviewing the effectiveness of the existing policy by March 2012 is also obsolete. The new Policy will routinely undergo a section 35 assessment of the Plan's efficiency and effectiveness five years from when the merged Plan becomes operative.

The amended Policy is appropriate for achieving Objectives 4.2.1 and 8.2.1 to maintain or enhance water quality, and avoid, remedy, or mitigate adverse effects on river bank stability, riparian margins, and water quality. Frequent stock crossings en route to milking sheds or other paddocks can pug and erode river and creek banks, and exacerbate sediment and stock effluent

volumes in waterways. This in turn can adversely affect river channels and flows, and aquatic habitat.

Policy 8.3.2. Rivers which have acid drainage issues, particularly those identified in Figure 3, will be managed as follows:....

Figure 3 showing the location of rivers with acid drainage issues is removed from the Proposed Plan as it has or may become out of date, and is unnecessary. Removing the reference to Figure 3 makes no material change to the Policy, and therefore it still meets Objective 8.2.1.

Policy 15.3.1 To avoid inappropriate or uncontrolled discharges or disposal of hazardous wastes substances to land.

Explanation

~~The disposal of hazardous wastes in the region is an issue of concern. *If not properly managed the discharge of hazardous substances may result in harmful environmental effects such as the contamination of the site where the activity is carried out, or contamination of water. This Policy reflects the need to ensure that any adverse effects can be avoided, remedied, or mitigated.*~~ Avoiding uncontrolled or inappropriate discharges of hazardous wastes substances to land involves the provision of alternatives for safe collection, storage, treatment and disposal. This policy reflects the direction taken in the Regional Policy Statement, which discusses the establishment of a regional storage and disposal system for hazardous wastes.

The proposed amendment is appropriate for meeting Objective 15.2.1 as the current Policy appears to have been aimed at landfills, and needs to be broadened to include discharges of hazardous substances at any site. Objective 15.2.1 uses the terms "discharges" and "substances" which are more inclusive than "waste" and "disposal". Removing the term "uncontrolled" will not detract from achieving the Objective, as this type of discharge can be dealt with under Section 17 of the RMA.

Policy 16.3.1 To locate and investigate contaminated sites maintain information on sites fitting the Hazardous Activities and Industries List (HAIL) criteria in the West Coast region.

The change clarifies the Council's role to collate available information on sites fitting the Ministry for the Environment's hazardous substance classification. This is the first important step towards achieving Objective 16.2.1. The amended Policy reflects the actions of the Council in establishing and updating a regionally comprehensive database of information about sites so people understand the circumstances around any individual classification. It is primarily the landowner, occupier, or developer's role to undertake investigations as and when needed to assess the risk of adverse effects from contaminants at a site.

Policy 16.3.2. To contain and remediate, or require containment and remediation of, contaminated sites and that are is causing adverse effects on the environment.

This change is consistent with the change to Objective 16.2.1, for the same reasons as given above.

The following three Policies for discharges of hazardous substances to land are proposed to be deleted (Discharge to Land Plan numbering used):

~~**8.4.1 To promote good practice for storing, transporting and using hazardous substances, including promoting adherence to relevant codes of practice and guidelines, where appropriate.**~~

~~**8.4.3 To provide for the mitigation of adverse effects associated with the accidental discharge of hazardous substances, by requiring the preparation of contingency plans where appropriate.**~~

~~8.4.4 To adopt an inter-agency coordinated approach to the management of hazardous substances.~~

It is inefficient to retain Policies 8.4.1 and 8.4.4. Objective 15.2.1 is implemented mainly through the consent process, and Policy 8.4.1 would be undertaken as a matter of course when processing consents. Policy 8.4.4 is a good practice approach which is undertaken as and when needed. Neither of these Policies provide additional, specific direction for achieving the Objective through consent processing beyond what already occurs.

Policy 8.4.3 cannot achieve Objective 15.2.1 and is ambiguous in that a contingency plan can only be required as a condition of a consent, and retrospective consents are not practical for retrospective consents for 'one-off' accidental spills.

The following policy for the discharge of solid contaminants is proposed to be deleted:

~~5.4.1 To encourage waste minimisation practices in the West Coast region.~~

Policy 5.4.1 is more suited to inclusion in the Regional Policy Statement and is a reflection of its current Policies. Therefore it is inefficient to include it in the Proposed Plan as it does not contribute any more than the current Objective and Policy for managing the discharge of solid contaminants.

Rules

Proposed changes to the Rules which are not covered in other Section 32 reports are listed in Appendix 1 of this Report. These minor amendments are made to improve the efficiency and effectiveness of the Proposed Plan, and are considered appropriate for the following reasons:

Rule 16 Vegetation disturbance or earthworks not complying with Rules 2, 5, 7, 8, or 9: Adding "grazing" to Rule 16 clarifies that grazing and livestock access to riparian margins is a discretionary activity if it does not comply with the permitted Rule 9.

Rule 18 Excavation of any new drain, or deepening of existing drains: Specifying the actual date of notification of the Wetlands Variation 1 will make it clearer for staff and Plan users if the rule applies to drainage activities.

Rule 47 Damming of water in catchments up to 50 hectares: Reducing the timeframe for notifying Council of the damming from two weeks to seven days makes it consistent with the timeframe in Rule 25 for erecting the dam. There is no need to have different timeframes as constructing the dam, and damming the water, are likely to occur concurrently.

Rules 65 and 66 Discharge of herbicide to water: The new condition reflects requirements to protect drinking water supplies in the Drinking Water National Environmental Standard, and will help to achieve Objective 13.2.1.

Rules 65 and 76 Discharges of herbicide and agrichemicals: Adding the term "comparable qualification" recognises that there is now more than one relevant qualification that is able to satisfy the requirements of the rule.

Rules 70-80 and 82 Discharge to land rules: The proposed change to the start of the rule: "...provided that all of the following conditions are met:..." clarifies that all of the conditions must be complied with to undertake the activity without obtaining a consent, and makes these rules consistent with the Land and Riverbed and Water Plan rules.

Rule 71 Solid waste and offal pits on farmland: Rule 71 combines these two previously separate activities under one rule for efficiency, as they have similar effects and conditions. Conditions a) and f) are deleted as it is impractical to prevent stormwater runoff soaking into sub-surface water, and water contamination is covered by condition b).

Rule 73 Land application of agricultural effluent: Minor changes are made to some conditions to make them clearer for effluent dischargers to implement, and to help minimise effluent entering

waterways. The conditions for maximum effluent and stored sludge application rates are combined into one condition for efficiency.

The reduced setback distance from 100m to 50m from a potable bore or well used for human or stock drinking is consistent with the same change in setback distance to Rules 74, 77 and 78. The reduction takes into account the groundwater table, generally more permeable aquifers on the West Coast, and the high rainfall which results in faster water movement and less opportunity for adverse effects on water quality. The additional text also reflects requirements to protect drinking water supplies in the Drinking Water National Environmental Standard.

The condition requiring an annual financial contribution for routine monitoring of compliance with the rule is no longer needed in the rule, and so retaining it would be inefficient. The annual inspection fee has been more appropriately included in Council's Schedule of Fees and Charges in the Annual Plan for several years. Annual inspections are ongoing, and the fee can be adjusted as needed through the Annual Plan process.

Rule 74 Feed lots and wintering pads: The reduced setback distance from 100m to 50m from a potable bore or well used for human or stock drinking is consistent with the same change in setback distance to Rules 77 and 78. The reduction takes into account the groundwater table, generally more permeable aquifers on the West Coast, and the high rainfall which results in faster water movement and less opportunity for adverse effects on water quality. The additional text also reflects requirements to protect drinking water supplies in the Drinking Water National Environmental Standard.

Rules 76 and 85 Agrichemical and 1080 discharges to land: The change to the New Zealand Standard updates the reference to the latest Standard.

Rule 80 Stockpiling: The cross reference to the Air Quality Plan will make the links between the land and air discharge rules clearer for stockpiling.

Rule 85 Aerial discharge of vertebrate pest control agrichemicals: Condition f) of the matters which Council has reserved control over is amended to include timing of signage for aerial operations. This updates the Rule to reflect current practice of requiring timeframes for warning signs, to ensure that the public has plenty of warning of the discharge.

Rule 87 Discharge to land discretionary activity rule: This rule combines the separate Rules 17-25, 27, and 28 from the Discharge to Land Plan into one discretionary rule, for efficiency. It eliminates a lot of unnecessary repetition with having separate Rules for each of these activities. The assessment matters have now been added into the information requirements of the merged Plan. These deletions are shown in the supplementary copy of the Discharge to Land Plan showing all deletions.

Methods

Many of the Methods in the three Plans are proposed to be deleted, especially from the Discharge to Land Plan. These are listed by their existing numbers in Appendix 2 of this report. It is considered unnecessary to include most of them in the Proposed Plan as many of the Methods are general tools which are readily available for Council to use as and when needed on a case by case basis.

Reasons for deleting them are:

- The matter has been progressed, changed, or resolved, so the Method is no longer relevant or is out of date, e.g. the global consent for gravel extraction.
- Some Methods are implemented routinely on an ongoing basis and do not need to be a Method e.g. taking into account Treaty of Waitangi principles, establishing monitoring procedures.
- The Method is unclear, or not the Regional Council's role e.g. promoting adherence to the NZ Environmental Care Code for outdoor pursuits where there are no toilets.
- Information provision and education are widely recognised tools that can be applied to any resource use issue and do not need particular mention in the Plan.

- Guidelines are produced by central government or other regional councils and have been adapted for the West Coast, so they do not need to be duplicated by this Council e.g. guidelines for disposal of agricultural wastes.
- Some Methods are provided for in the RMA and do not need to be included as a Method e.g. using enforcement provisions in the RMA for unauthorised activities.
- Some Methods occur as a matter of course e.g. ensuring regional plans are consistent, keeping up to date with technology advances.
- Some of the Methods are implemented by rules or through consents and compliance processes, e.g. promoting good siting and management of silage stacks, encouraging commercial agricultural discharges to gain certification.

The Methods that are retained relate to the most current, pressing, common or larger issues, including Lake Brunner water quality, stormwater and sewage effluent management, flood hazard risk management, managing cumulative effects of water takes, and codes of practice for sustainable land use.

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| Section 32(4)(a): The benefits and costs of policies, rules, or other methods. |
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The main benefits of the changes will be to resource users and Council staff. The proposed changes improve the usability of the Plan, make terms consistent and up to date with central government regulations and guidelines, and reduce unnecessary repetition with permitted rules and methods.

Making some of the rules more concise makes the Plan clearer. This should reduce staff time spent on clarifying how the conditions are applied.

The public will benefit from protection of potable water supplies.

The new conditions should also result in better environmental outcomes, and ongoing good resource management practice. Changes to the hazardous substance policies, for example, will ensure continued protection of land and water from inappropriate discharges, and direct continued provision of hazardous waste collection and storage sheds at the three main landfills. Removal of the three hazardous substance policies will not result in any loss of effectiveness with consent processing.

With respect to the amended Policy 3.4.6 requiring passage for regular stock crossings, this has and will entail significant costs to landowners to provide bridges and culverts for stock to cross waterways. The original Stock Crossing Policy was developed in 2006, and provided a reasonable timeframe over two years for farmers to comply with it. There is flexibility in the Policy for a resource consent where the costs of providing passage may not be justified by the effects of the discharge, subject to a case by case assessment. The costs to landowners of implementing Policy 3.4.6 are considered appropriate in terms of section 101(3)(a)(iv) of the Local Government Act 2002. This clause requires Council to consider how management of adverse effects of stock crossings on waterways will be funded. It is considered appropriate that the costs are borne by the individuals whose actions contribute to the need to have stock passage over waterways.

Some of the new conditions may require more care being taken by dischargers. For example, extra time may be needed to check the location of nearby wells or bores, or check that the carrying capacity of existing drains is sufficient for a new stormwater discharge. This is considered to be reasonable as the proposed changes are in effect no different to current obligations under section 17 of the RMA to avoid, remedy, or mitigate adverse effects. Compliance with the new provisions will avoid more costly enforcement and mitigation action if good practice is carried out. The change reflects a user pays approach rather than other ratepayers bearing the cost to mitigate adverse effects of substandard activities.

Section 32(4)(b): What is the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods?

This test is not so relevant to the proposed changes as information and uncertainty are not underlying issues. There is little or no risk of adverse effects from making, or not making, the proposed changes.

There is sufficient scientific evidence that stock crossing through waterways has more than minor adverse environmental effects. Council's Stock Crossing Policy will still have effect if it is not incorporated into the Proposed Plan, although it is appropriate for it to be included as it deals with a relevant resource management issue.

The new condition in Rules 65 and 66 is a national requirement which stands regardless of its inclusion in the Proposed Plan.

If the proposed changes are not adopted, there is not likely to be significant negative environmental outcomes. However, implementation of the Plan would continue to be less than efficient. Some of the changes are proposed as good practice. As for the reference to the latest NZ Standard for agricultural spraying in the discharge rules, other relevant qualifications would be considered on merit. The Methods would take up space in the Plan but would not necessarily be implemented for their inclusion. It is therefore prudent to make the proposed changes, as they will improve efficient use of the Proposed Plan.

APPENDIX 1 – PROPOSED CHANGES TO RULES

Rule 18. Excavation of any new drain, or deepening of existing drains

The excavation of any new drain, or the deepening of any existing drain excavated prior to 15 October 2005 ~~the notification of this Plan Variation~~, within any wetland identified in Schedule 1 of this Plan is a ***non-complying activity***.

Rule 47. Damming of water

The damming of water is a ***permitted activity*** if all the following conditions are met:

- (a) The size of the catchment upstream of the dam does not exceed 50 hectares;
- (b) The water depth is no more than 3 metres at the dam face and the total water volume stored by the dam does not exceed 20,000 cubic metres;
- (c) The damming does not cause or exacerbate flooding of another person's property, erosion, land instability, sedimentation or property damage;
- (d) The dam is not located less than 20 metres above mean sea level;
- (e) If constructed in permanently flowing streams, the dam allows a residual flow of 75% of MALF or the instantaneous flow whichever is the lesser;
- (f) Council is informed in writing of the location of the dam and the method of construction proposed, at least ~~two weeks~~ seven days prior to commencing the erection or placement of the dam;
- (g) A spillway is constructed, designed to pass the probable maximum flood;
- (h) For sites where fish are present, effective fish passage is provided for;
- (i) No lawful take of water is affected by the damming;
- (j) There shall be no inundation of a natural wetland.

Note: Council will check the sites where a dam is to be constructed and undertake fish surveys to ensure that the person undertaking this activity has complied with condition (b). Council staff may also be available to assist with fish surveys prior to the dam's construction, if requested.

The Council will review Rule 47 when Variation 1 has been fully resolved.

Rule 65. Discharge of aquatic herbicide in gel form

The discharge of aquatic herbicide in gel form to water for the purpose of controlling aquatic plants is a ***permitted activity*** if all the following conditions are met:

- (a) The herbicide and any additive are authorised for aquatic use in New Zealand, and is applied in accordance with that authorisation and any directions issued by the herbicide manufacturer;
- (b) The applicator holds a Growsafe® Registered Chemical Applicator Certificate of Qualification, or comparable qualification, or is working under the direct supervision of someone who does and a copy of that certificate is produced to an officer of the Council, on request;
- (c) No lawful take of water is adversely affected as a result of the discharge; and
- (d) The applicator notifies all persons taking water within 1 km downstream of the discharge, at least one week prior to the discharge occurring, advising of the time the discharge is to occur.
- (e) The discharge does not have any adverse effects on any take of water for human consumption.

Rule 66. Discharge of herbicide to water

The discharge of herbicide to water incidental to its application to emergent aquatic plants or plants adjacent to a water body is a **permitted activity** if all the following conditions are met:

- (a) The herbicide and any additive are authorised for use in or over water, in New Zealand, and is applied in accordance with that authorisation and any directions issued by the herbicide manufacturer;
- (b) All reasonable measures are taken to minimise the quantity of incidental discharge into water;
- (c) No lawful take of water is adversely affected as a result of the discharge; and
- (d) The applicator notifies all persons taking water within 1 km downstream of the discharge, at least one week prior to the discharge occurring, advising of the time the discharge is to occur.
- (e) The discharge does not have any adverse effects on any take of water for human consumption.

Rule 70. Silage and silage wrap

The discharge of any contaminants into or onto land in connection with the storage of silage is a **permitted activity**, provided that all of the following conditions are met:

- a) There is no contamination of water, including groundwater and coastal water;
- b) Silage wrap is disposed of by either high temperature (greater than 1000 degrees Fahrenheit) incineration, by burial on the subject property, or at a landfill.

Rules 70-81 and 83: Add "...all of..." to the start of the rule.

Rule 71. Solid waste and ofal pits

The discharge of any contaminants into or onto land in connection with the disposal of solid waste, including ofal, on production land is a **permitted activity**, provided that all of the following conditions are met:

- ~~(a) No stormwater enters the pit;~~
- (b) There is no contamination of water, including groundwater and coastal water;
- (c) The discharge consists only of solid waste, or ofal, generated on the subject property;
- (d) The discharge area is not within 50 metres of the subject property boundary;
- (e) The discharge does not contain:
 - Any hazardous substance or container used to store hazardous substances;
 - Any septage or sludge;
- ~~(f) The pit is securely covered or fenced;~~
- (g) There is no windblown litter from the subject property; and
- (h) Within twelve months of the activity ceasing, the discharge area is rehabilitated to a condition compatible with the surrounding land.

Rule 73. Land application of agricultural effluent

The discharge of agricultural effluent into or onto land, except in the Lake Brunner catchment, is a **permitted activity** provided that all of the following conditions are met:

- (a) no agricultural effluent is discharged within:

- (i) 50 metres of any well or bore used for potable water supply and there are no adverse effects on any take of water for human consumption;
- (ii) 20m of any surface water body;
- (iii) 20m of any drain with flowing water;
- (iv) 20m of any adjoining property;
- (b) there is no runoff of agricultural effluent into surface water bodies, drains, or coastal water;
- (c) there is no ponding or visible surface flow of effluent, or pasture burning;
- (d) the application rate from any combination of agricultural effluent is at a rate not exceeding the equivalent of 275kgN/ha/year, and shall not exceed 20mm in depth per application;
- (e) there are contingency measures in place to ensure that there is no contravention of these conditions in the event of pump or other system failure, or unsuitable soil conditions;
- (f) ~~a financial contribution is paid to the West Coast Regional Council before 30 June each year. This amount shall be determined in accordance with the West Coast Regional Council's Schedule of Charges. For the year 2000/2001 it shall not exceed \$50. Any future increase in this fee shall not exceed the rate of the Consumer Price Index. The charges relate to the following purposes:~~
 - ~~(a) the cost of monitoring and inspecting agricultural effluent disposal systems;~~
 - ~~(b) cost of administering and managing the Regional Council's database;~~
 - ~~(c) cost of the Regional Council's response to minor non-compliance issues by means of correspondence and educational material;~~
 - ~~(d) cost of specific scientific investigations undertaken by or on behalf of the Regional Council into the effects of application of agricultural effluent to land.~~

Note: This Rule applies to agricultural effluent which is collected and discharged from a point source into or onto land.

The maximum nitrogen application rate in condition (d) is set at 275kgN/ha/year as agricultural effluents are slow-release nitrogen fertilisers.

The requirement for contingency measures is for situations where any discharge would not be able to meet conditions (b), (c), (d) of the Rule. If any of the conditions cannot be met a resource consent is required.

For the purpose of this Rule, drains do not include the hollows of humped and hollowed land unless they contain water at the time of discharge. If hollows contain water at the time of discharge, then this may require a consent if it cannot meet the conditions of Rule 61.

Good practice guidelines such as how to calculate whether the maximum nitrogen application rate is being met, maximum depth of effluent to be applied, and adequate storage for herd size can be obtained from the Regional Council.

Rule 77. Application of agrichemicals on areas other than domestic properties

The ground-based or aerial discharge of any agrichemical, other than those specified in Rule 84 (Aerial Application of Vertebrate Pest Control Agrichemicals), is a **permitted activity** provided that all of the following conditions are met:

- a) The mixing and application of the agrichemical is undertaken in accordance with the manufacturer's instructions, at concentrations not exceeding manufacturers label recommendations;
- b) If the agrichemical is applied by a ground-based commercial spray applicator (excluding commercial spray applicators applying vertebrate pest control chemicals), then the applicator holds or is supervised by a person who holds a current Growsafe™ Registered Chemical Applicators Certificate issued by the New Zealand Agrichemical Education Trust, and a copy of that current Growsafe certificate is produced to an enforcement officer of the Council on request;
- c) If the agrichemical is applied aerially by a commercial spray applicator (excluding commercial spray applicators applying vertebrate pest control chemicals), then the applicator holds a current Growsafe™ Agrichemical Pilots Rating Certificate issued by the New Zealand Agrichemical Education Trust, or comparable qualification, and a copy of that

current Growsafe certificate is produced to an enforcement officer of the Council on request;

- d) The application is undertaken in accordance with Part 5 of the "~~Agrichemical Users' Code of Practice~~" "Management of Agrichemicals" (New Zealand Standard 8409: 2004, New Zealand Agrichemical Education Trust, 2004);

Rule 85. Aerial application of vertebrate pest control agrichemicals

The aerial discharge onto land of any vertebrate pest control agrichemical specified in Schedule 13 of this Plan is a **controlled activity**, and shall comply with the following standards and terms:

- a) All residents and occupiers of school buildings within the application area or immediately adjoining the application area are notified at least 48 hours prior to the commencement of the aerial operation;
- b) The discharger immediately notifies the West Coast Regional Council in the event of any accidental discharge of any agrichemical;
- c) A 100 metre buffer is maintained between the area of application and the boundary of the subject property and between the area of application and any house site;
- d) Notification of the aerial operation in the local paper occurs at least 14 days prior to the work commencing;
- e) Signs are posted notifying the public of the application of agrichemicals in public access areas including roads, walking tracks and access along creeks and rivers;
- f) The applicator holds a current Growsafe™ Agrichemical Pilots Rating Certificate issued by the New Zealand Agrichemical Education Trust, and a copy of that current Growsafe certificate is produced to an enforcement officer of the Council on request;
- g) The application is undertaken in accordance with Part 5 of the "~~Agrichemical Users' Code of Practice~~" "Management of Agrichemicals" (New Zealand Standard 8409: 2004, New Zealand Agrichemical Education Trust, 2004).
- h) Any agrichemical spray drift derived from the discharge is not noxious, dangerous, offensive or objectionable beyond the target area to such an extent that it has or is likely to have an adverse effect on the environment.

The Council has reserved control over the following matters:

- a) The nature of the chemical to be applied;
- b) Method, rate and concentration of application;
- c) Buffer zones;
- d) Form and content of notification;
- e) Timing of operations in relation to weather conditions;
- f) Location and timing of signs;
- g) Monitoring requirements;
- h) The duration of the resource consent;
- i) Review conditions of the resource consent.

Rule 86. Discharge to land discretionary activity Rule

Unless permitted by Rules 70 to 83, or controlled by Rules 84 and 85, any discharge of contaminants into or onto land is a **discretionary activity**.

APPENDIX 2 – METHODS PROPOSED TO BE DELETED

Note: Current Method numbers in existing plans are referred to.

| Land and Riverbed Plan | Water Management Plan | Discharge to Land Plan |
|---|--|---|
| <i>Land Management</i> 4.5.1 | <i>Liaison</i> 13.2.3 | <i>Solid Contaminants</i> All Methods 5.5.1 – 5.5.18 |
| 4.5.2 | 13.3.1 | <i>Liquid Contaminants</i> All Methods 6.5.1-6.5.21 |
| 4.5.5 | <i>Information</i> 13.3.3 | <i>Agricultural Contaminants</i> All Methods 7.5.1-7.5.20 |
| 4.5.6 | <i>Promotion & Education</i> 13.4.1 | <i>Hazardous Substances</i> All Methods 8.5.1-8.5.26 |
| <i>Lake and Riverbed Management</i> 5.5.1 | <i>Monitoring</i> 13.5.1 | <i>Contaminated Sites</i> All Methods 9.5.1-9.5.18 |
| 5.5.2 | <i>COP & Env Mgmt Systems</i> 13.6.1 | |
| 5.5.3 | | |
| 5.5.4 | | |
| 5.5.5 | | |
| 5.5.6 | | |