

Appendix 3: Section 32AA Analysis supporting recommended amendments to PC7 to provide for resource consent applicants seeking to utilize mainline irrigation pipes installed before 18 March 2020 to irrigate an area that was not irrigated prior to this date

Options	Cost/Risk	Benefit	Risk of acting or not acting/ Sufficiency of information
<p>Option 1: Do nothing</p> <p>Under this option no alternative consenting pathway to the non-complying pathway is provided for water users who seek to utilize mainline irrigation pipes installed before 18 March 2020 to irrigate an area that was not irrigated prior to this date.</p>	<p>- Greatest cost and/or risk for water users (relative to other options). Irrigators have a choice to either:</p> <ul style="list-style-type: none"> o Forgo planned irrigation expansion, causing stranding of existing assets and rendering earlier investment redundant; or o Apply for a consent to expand the irrigated area beyond the maximum size of the area irrigated in the period 1 September 2017 to 18 March 2020 as a non-complying activity. Applying for consent under the non-complying activity rule is likely to be more costly, complex and risky (because consent can only be granted if the gateway test under s104D is passed) 	<p>- Less risk to the environment (relative to other options) because the non-complying activity status:</p> <ul style="list-style-type: none"> o allows for a more comprehensive and case specific assessment of resource consent applications; and o provides the consent authority with the ability to either decline the application or fully consider environmental effects and set appropriate consent conditions on all matters it considers relevant. 	<p>- There is generally sufficient and certain information by way of evidence provided to the Environment Court that substantial investment and infrastructure works have already occurred in some cases</p> <p>- Most of the evidence on the topic of stranded assets provided to the Environment Court discusses investments in irrigation infrastructure made within the context of orchards and viticulture. There is a lack of certainty around the potential for stranded assets associated with pastoral farming. Therefore, the risk of acting or not acting to address the stranded assets issue within the context of pastoral farming is uncertain.</p>
<p>Option 2: Providing a controlled activity pathway for all activities</p> <p>Under this option water users who want to utilize mainline irrigation pipes installed before 18 March 2020 to irrigate an area that was not irrigated prior to this date can apply for a</p>	<p>- Greatest risk to the environment (relative to other options) because the controlled activity pathway:</p> <ul style="list-style-type: none"> o Does not provide the consent authority with the ability to decline the application; and o Provides the consent authority with limited ability to address environmental effects as it can only set consent conditions for those matters over which the council has reserved control, and there is no framework for assessing environmental effects through this pathway 	<p>- Less risk for water users (relative to other options) because the controlled activity pathway:</p> <ul style="list-style-type: none"> o Does not provide the consent authority with the ability to decline the application and; o Provides applicants with a simple and low-cost application process; and o Restricts the ability for the consent authority to set consent conditions to only those matters over which 	<p>- There are currently no effective planning provisions in the operative regional planning framework and in proposed PC7 that allow for the assessment and management of the effects of irrigation expansion on water quality. However, it is considered that these risks can be reduced by:</p> <ul style="list-style-type: none"> o Ensuring the irrigation expansion does not result in an overall increase in water use (from historical levels) o By council retaining a degree of control over the size and location of the irrigated area and the use

<p>consent to increase the irrigated area as a controlled activity.</p>		<p>the council has reserved control.</p>	<p>of good management practices to address the potential for adverse effects of the expansion.</p>
<p>Option 3: Providing a restricted discretionary activity pathway</p> <p>Under this option water users who seek to utilize mainline irrigation pipes installed before 18 March 2020 to irrigate an area that was not irrigated prior to this date can apply for a consent to increase the irrigated area as a restricted discretionary activity, with discretion reserved over the area of increased irrigation and the use of good management practices.</p>	<ul style="list-style-type: none"> - Some risk remains to the environment because the consent authority's discretion as to whether or not to grant consent, and impose consent conditions is restricted to those matters over which it has restricted its discretion. - Some risk remains to water users compared to the controlled activity rule because the consent authority has discretion to decline the application (although council's ability to do so is limited to those matters over which it has restricted its discretion). - This option may not be easily accessed by shareholders of an irrigation scheme. 	<ul style="list-style-type: none"> - Reduced risk to the environment compared to the controlled activity pathway because the restricted discretionary activity pathway provides council with the ability to decline applications (although council's ability to do so is limited to those matters over which it has restricted its discretion). Including discretion over good management practices provides for some management of the risks of contamination of water bodies from irrigation of the additional area. - Reduced cost/risk to water users compared to the non-complying activity pathway because this option: <ul style="list-style-type: none"> o Provides water users with a less complex and less costly consenting pathway; and o restricts council's ability to impose consent conditions to those matters over which it has restricted its discretion. 	<ul style="list-style-type: none"> o Limiting the access to the RDA pathway to orchards or viticulture only. - There is a risk that by not acting (option 1), landholders with stranded assets will apply under the non-complying rule. This can act as an incentive to apply for longer consent durations and higher rates of take or take volumes (compared to historical volumes) at the same time. - Applicants may be more likely to apply for a shorter consent term and rate of takes and volumes within the limits of their historical use under a consenting pathway that is likely to be less risky and less expensive.
<p>Option 4: Providing a restricted discretionary activity pathway with access limited</p>	<ul style="list-style-type: none"> - Similar costs as option 3, except that: <ul style="list-style-type: none"> o the environmental risk is further reduced by limiting the access to the RDA pathway to land uses that are known to have lower impacts in terms 	<ul style="list-style-type: none"> - Similar benefits as option 3, except that: <ul style="list-style-type: none"> o That there may be reduced benefits for permit holders with a pastoral farming 	

<p>to orchards and viticulture only</p>	<p>of water quality (i.e. orchards and viticulture) compared to other land uses (i.e. pasture irrigation). Where the proposed expansion is intended to provide for pasture irrigation applications need to be made under the NCA pathway allowing council to undertake a comprehensive assessment of environmental effects and address these through the setting of consent conditions.</p> <p>Greater complexity and cost associated with applications for land use other than orchards and viticulture which had mainline irrigation infrastructure in place as they will be required to proceed under the NCA pathway.</p>	<p>operation as the RDA pathway is not available to them and they may need to apply under the more complex and risky NCA pathway.</p> <ul style="list-style-type: none"> ○ Allow for consideration of environmental effects under the NCA rule for land uses other than orchards and viticulture. 	
<p>Option 5: Providing a controlled activity pathway with access limited to orchards and viticulture only.</p>	<ul style="list-style-type: none"> - Risk to the environment from increased scale however, this is a lesser risk than option 2 because the controlled activity pathway is limited to particular land uses. - Does not provide the consent authority with the ability to decline the application; and - Provides the consent authority with limited ability to address environmental effects as it can only set consent conditions for those matters over which the council has reserved control, and there is no framework for assessing environmental effects through this pathway. 	<ul style="list-style-type: none"> - Less risk for orchard and viticultural water users because the controlled activity pathway: <ul style="list-style-type: none"> ○ Does not provide the consent authority with the ability to decline the application and; ○ Provides applicants with a simple and low-cost application process; and - Restricts the ability for the consent authority to set consent conditions to only those matters over which the council has reserved control. - Allow for consideration of environmental effects under the NCA rule for land uses other than orchards and viticulture. 	

		<p>That there may be reduced benefits for permit holders with a pastoral farming operation as the controlled pathway is not available to them and they may need to apply under the more complex and risky NCA pathway.</p>	
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Efficiency and effectiveness

Based on the available evidence, creating a restricted discretionary activity pathway to provide for situations where water users have planned an expansion of the size of the irrigated area and have installed irrigation infrastructure prior to 18 March 2020 (Option 4) is considered to be more effective in meeting the intent of PC7 than the other options.

Option 4 is considered the most efficient and effective option in facilitating the transition from the operative freshwater planning framework toward a comprehensive new planning framework, by ensuring that:

- Decisions on increases in the scale and intensity of water use do not compromise effective implementation of the new regional planning framework.
- No new consents that allow for an expansion of the irrigated area are granted a duration of more than six years or are allocated a rate of take and or volumes that exceed historical water use.
- Council retains some ability to mitigate the potential adverse effects of the irrigation expansion.
- Water users have access to a consenting pathway that is still relatively simple and cost-effective.
- The risk of adverse environmental effects is reduced by only allowing for expansion of orchards and/or viticulture, where infrastructure is already in place.