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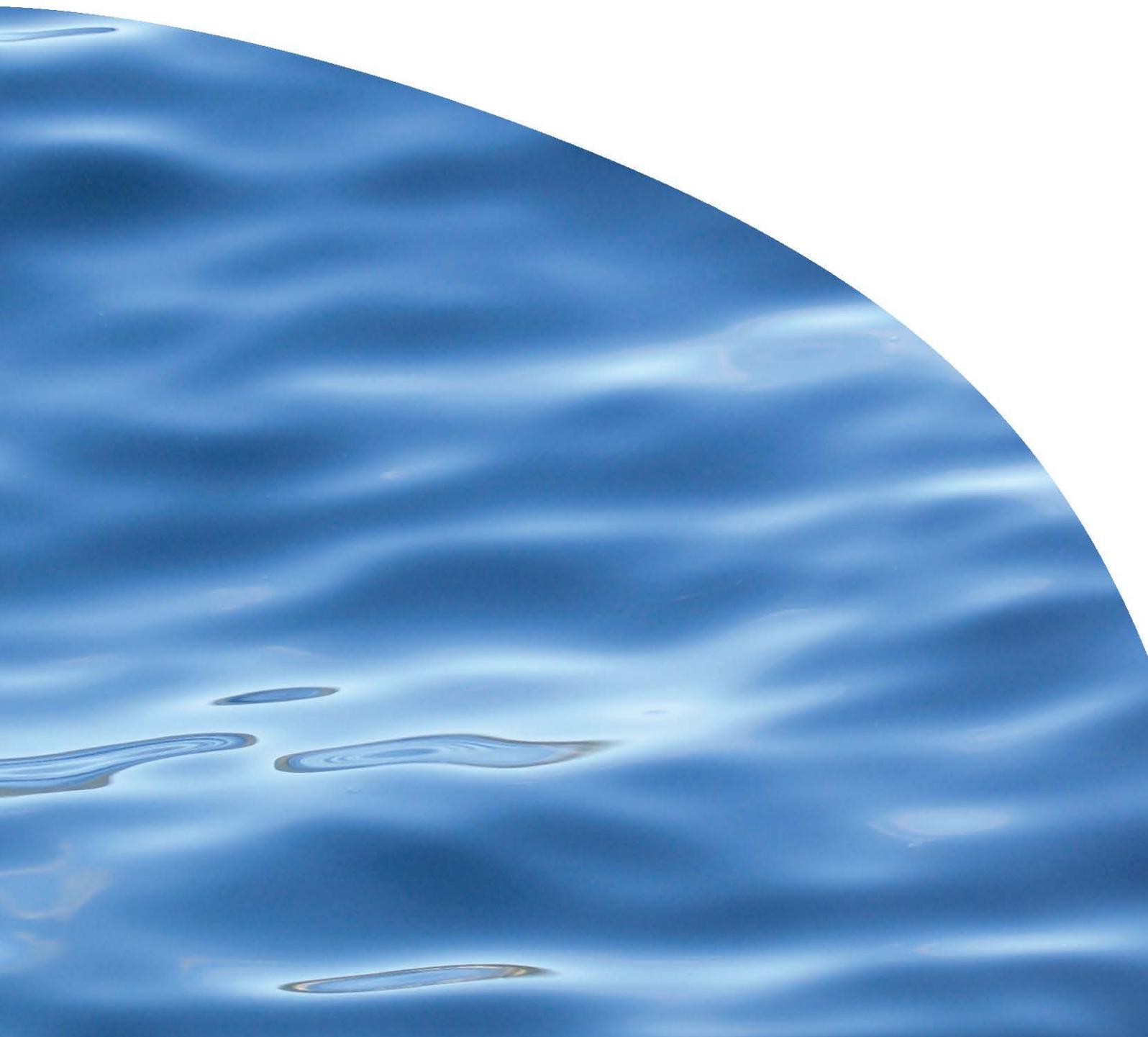
REPRESENTATION AND LEGITIMACY IN COLLABORATIVE FRESHWATER PLANNING: STAKEHOLDER PERSPECTIVES ON A CANTERBURY ZONE COMMITTEE

REPRESENTATION AND LEGITIMACY IN COLLABORATIVE FRESHWATER PLANNING: STAKEHOLDER PERSPECTIVES ON A CANTERBURY ZONE COMMITTEE

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EXECUTIVE SUMMARY

The long-term success of collaborative approaches to freshwater planning depends on their democratic legitimacy. With collaborative planning being promoted by the New Zealand government and trialled by several regional councils, this study is one of the first in New Zealand to gauge the wider community's views of the legitimacy of this new approach.

This report focuses on the issue of representation—how affected interests are involved in collaborative deliberations—and specifically the perceptions of the legitimacy of the collaborative process by those not directly involved in the deliberations themselves. These people were categorised broadly as people who attended workshops to provide input to the process, those who made formal submissions at a later stage in the process, and the general public. We asked the question, how does an individual's or group's level of involvement with a collaborative planning process affect their perceptions of the legitimacy of the process? We were also interested in the extent to which the collaborative process helped to overcome the risk of planning processes being captured by interest groups.

The research is based on three focus group meetings conducted with community members in the Selwyn District of Canterbury in mid-2014, complemented by a small survey on the main street of a rural town in the same district. Participants were asked about various aspects of representation in the Selwyn-Waihora Zone Committee process, which was tasked with making recommendations to Environment Canterbury regarding freshwater management. Data were analysed in terms of participants' degree of engagement in the collaborative planning process, to assess whether this affected their support for the process. Overall, there were mixed feelings from those who had engaged with the zone committee process (which we categorised as workshoppers and submitters) regarding legitimacy of the outcomes, while participants who had not engaged (categorised as general public) were unaware of the process and unanimously sceptical.

Of most concern to focus group participants were their perceptions that the collaborative process:

- is not inclusive of, and does not represent, many in the wider Canterbury community,
- creates unequal opportunities for participation between different community groups,
- has eroded the level of democracy relative to standard freshwater planning processes under the Resource Management Act 1991,
- is driven by a political agenda,
- lacks accountability and transparency, and
- does not communicate enough with the communities of Canterbury.

If a collaborative planning process is working well and achieving the objective of making planning more transparent and democratic, we would expect to see positive comments on the process and outcomes from engaged and unengaged stakeholders. Conversely, if a collaborative planning process makes progress in decision-making by including interest groups and excluding the wider public, we would expect to see mostly positive comments from the engaged groups and mostly negative comments from the general public.

However, neither of these outcomes describes what we heard in the focus groups regarding the Selwyn-Waihora Zone Committee. General public participants were uniformly negative about the zone committee process (based on our description, since they were not familiar with it), while the engaged group (workshoppers and submitters) was divided largely along interest group lines. Environmental, recreational and community group members were all quite negative about the transparency, accountability and representativeness (*i.e.* legitimacy) of the process, while those from farming backgrounds were more likely to give a positive overall assessment even though they also recognised the shortcomings. This is based on a very small sample, however. Further research is needed to determine whether the views expressed by this small sample are indicative of the wider population of Canterbury.

Despite perceptions of significant shortcomings in the Selwyn-Waihora zone committee process, the committee has made decisions and the planning process is moving forward, where previously it was stalled. Selwyn-Waihora and Canterbury more generally are among only a few areas in New Zealand where regulations are being established that specifically seek to limit non-point source discharges of nutrients from farming properties. As part of the agreement in Canterbury, plans are also proceeding to enable more water storage and hence more land intensification, which environmental groups fear will make the nutrient discharge limits unachievable. Meanwhile, opposition has emerged from a group of farmers who were not engaged in the process and discovered, after decisions had been made, that they would be adversely affected.

Where representation and accountability are seen to be lacking, as appears to be the case in Selwyn-Waihora, some unrepresented interests are likely to object to and oppose outcomes agreed within a collaborative process. It can be expected that shortcomings of process (input legitimacy) will be used as a basis for some stakeholders to reject unfavourable outcomes, *i.e.* to challenge output legitimacy. The participants in our research groups found ample reasons for scepticism about the Selwyn-Waihora zone committee process, and hence no shortage of grounds to challenge the legitimacy of the outcomes.

We consider Canterbury's approach to be a hybrid of collaboration and the more traditional approach, which we call 'Consult-Decide-Defend-Litigate'. Canterbury's approach still faces questions about its legitimacy in the eyes of some stakeholders and the general public.

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1. INTRODUCTION

In many regions of New Zealand, collaborative planning is being implemented as a way to find solutions to the complex challenges of freshwater management. Although there are examples from the 1990s of collaborative solutions to environmental problems in New Zealand (*e.g.* the NZ Forests Accord; see Memon & Wilson 2007), New Zealand's exploration of collaborative planning for freshwater started in 2007 with recommendations that New Zealand follow the Nordic model of environmental governance (Salmon *et al.* 2007). The collaborative approach to freshwater planning received its first trial at the Land and Water Forum (the Forum), which was established in 2008 (Land and Water Forum 2010).

Collaborative approaches featured prominently in the Canterbury Water Management Strategy released in 2009, the implementation of which began in March 2010 (Canterbury Water 2010). Environment Canterbury and other regional councils are now trialling collaborative planning as they implement the National Policy Statement for Freshwater Management (Ministry for the Environment 2014). Following recommendations from the Forum (Land and Water Forum 2012), the Government is considering amending the Resource Management Act 1991 (RMA) to provide a collaborative planning option for councils to use as an alternative to the standard consultation process for developing regional plans. This option could also limit appeal rights (Ministry for the Environment 2013, pp. 25–26).

In theory, collaborative planning engages parties in a decision-making process to achieve joint learning, build capacity for problem-solving and adaptation, and generate more durable solutions that are accepted by the wider community (Innes & Booher 2010). The shift to collaboration comes in the recognition that plan-making processes defined in existing statutes are unsuited to tackling today's increasingly complex freshwater management challenges (Ministry for the Environment 2013; Sinner & Berkett 2014). Under the RMA, regional councils consult with stakeholders, propose a plan, and then defend that plan through a process of submissions, hearings and appeals. In these circumstances, if issues cannot be resolved through submissions and council hearings, parties may resort to litigation. We call this the consult/ decide/defend/litigate (CDDL) model. It differs somewhat from the Decide-Announce-Defend (DAD) model described by some authors (Richard 1999; Meegeren 2001; Bell *et al.* 2005; Rasche *et al.* 2006; Karsten 2013). Under CDDL, councils generally consult with interest groups and in some cases the wider public prior to deciding their preferred course of action (announced as a proposed plan). However, there are three key similarities between CDDL and DAD that set them apart from collaboration: consultation, if it occurs, is generally a process of collecting stakeholder views rather than engaging in dialogue; both CDDL and DAD rest on the presumption that formally-elected representatives (or persons directly accountable to them) are the most appropriate decision makers; and both approaches often resolve differences through adversarial processes.

The RMA and its statutory predecessors were developed in a time of relative resource abundance when freshwater management was less contentious than it is today, and the CDDL model, based on a paradigm of scientific management, was seen as appropriate (Brunner & Steelman 2005). However, New Zealand's freshwater resources are now characterised by over-allocation, declining water quality, inefficient use, lack of information on the impacts and outcomes of management decisions, and insufficient consideration of iwi values (Ministry for the Environment 2013). New Zealand's resource management institutions have been described as 'insufficiently adaptive and dynamic', with decision-making processes that are 'litigious, resource-consuming and create uncertainty' (Ministry for the Environment 2013, pp 18-19).

Many argue that collaborative planning has the ability to build social, political, and intellectual capital and is more suited to address complex freshwater management challenges (Scholz & Stiftel 2005; Pahl-Wostl *et al.* 2007) than the DAD or CDDL approaches. The New Zealand government, in promoting its reform proposals, claims that collaborative planning better reflects the Treaty of Waitangi partnership with Māori and that, by 'supporting councils to engage with communities about their values and interests earlier… over time [it] can build stronger relationships and trust' (Ministry for the Environment 2013, pp. 26-27; see also Sinner & Harmsworth 2015).

With the new collaborative approach come new challenges. In Canterbury, the New Zealand region most experienced with collaborative freshwater planning, the regional council has established a regional committee and ten zone committees whose members are expected to work collaboratively and make recommendations on freshwater planning. As will be seen below, numerous public statements have questioned Canterbury's zone committee process and its outcomes. Given that collaborative planning is claimed to build public trust in decision-making, we wanted to explore community perceptions about this approach. In particular, we sought to answer the question: how does the level of engagement of an individual or group in collaborative freshwater planning affect their perceptions of the legitimacy of that process?

Legitimacy as used here refers to the acceptance of a governing body, process or decision by those being governed as valid or right; this is further defined in the next section. Understanding community perceptions about the legitimacy of collaborative planning will help to realise the potential of the approach and enhance the durability of decisions and the decision-making institutions themselves. It has been argued that when people perceive a governance process as fair they are more likely to obey the law and support government policies (Tyler 2006)—even when the outcomes are not in their interest (Miles 2014). Conversely, when people perceive a governance process as clearly unfair, prior attitudes are more likely to determine whether they support or oppose a decision (Doherty & Wolak 2012).

The next section of this report defines some key concepts and reviews the literature on the legitimacy of collaborative planning and traditional planning processes. In the third and fourth sections, we present the background to our case study in Canterbury and describe our methods. The fifth section, our results, presents stakeholder perceptions of the collaborative planning process in the case study area. In Section 6, we ask whether the zone committee process actually fits the definition of collaborative planning and consider possible reasons for differences in perceptions of different stakeholders. The final section summarises our conclusions on how the nature of representation in collaborative planning processes influences public perceptions of the legitimacy of decisions from those processes.

2. CONCEPTS OF LEGITIMACY IN COLLABORATIVE PLANNING

2.1. Some key concepts

In this section we briefly introduce and define some key concepts: representation, accountability, transparency, legitimacy and collaborative planning. Each of these has been the subject of considerable academic enquiry; however the intent here is not to review this literature but simply to define how we are using each of these terms.

We define **representation** as the process of acting on behalf of another party with their authorisation. Two European scholars described representation in so-called network governance as follows:

> The first aspect of performative representation is the ability of the membership to *select and instruct their representatives*. … Indeed, there should be opportunities for the members of the participating groups and organizations to discuss whether they should participate in a particular governance network, whom should represent them, and what the role and position of the representatives should be (Sørensen & Torfing 2005, p. 207; emphasis in original).

In writing about a Canterbury zone committee process, Thomas (2014, p. 98) said about representation:

> Democracy relies on those who do meet together to act in a representative way. By this Young (2002) means working through processes of authorisation and accountability whereby the representative receives a mandate, and is held responsible for decisions, through wide ranging and engaged public debate.

In this excerpt, Thomas also highlighted the importance of **accountability**, which we define here as being answerable to the person or group that has provided the mandate, *i.e.* authorisation, to their representative. Often being accountable to a group means that the group can provide instructions to the representative and, if not satisfied with the representative, withdraw the mandate.

In the context of this report, **transparency** means the degree to which decisions, the reasons for them, and the process by which they are made are clear to interested parties and the public more generally. Ansell and Gash (2007, p. 557) said, 'Process transparency means that stakeholders can feel confident that the public negotiation is 'real' and that the collaborative process is not a cover for backroom private deals.' According to Sorensen and Torfing (2005),

> Governance networks and their key policy decisions should be visible to the general public, and their public accounts for why and how the governance networks made these decisions, and with what results, should be comprehensive, informative and accessible for lay people (p. 210).

We define **legitimacy** broadly as acceptance of a governing body, process, or a particular decision, by the governed as valid or right. Scharpf (1997, 1999) defines legitimacy as having two dimensions: input legitimacy and output legitimacy. Input legitimacy requires fair and just mechanisms to link political decisions with citizens' preferences, while output legitimacy refers to the ability of a governing body to achieve the goals that citizens collectively care about (Boedeltje & Cornips 2004). In this study, we are primarily concerned with aspects of input legitimacy.

Finally, we define **collaborative planning** to refer to the same concept as the following definition of collaborative governance:

> A governing arrangement where one or more public agencies directly engage non-state stakeholders in a collective decision-making process that is formal, consensus-oriented, and deliberative and that aims to make or implement public policy or manage public programs or assets (Ansell & Gash, 2007, p. 544)

Cradock-Henry (2013) identified 23 criteria for successful collaborative processes based on other studies (*e.g.* Leach *et al.* 2002; Sabatier *et al.* 2005; Morton *et al.* 2012). Among these are several factors that contribute to input legitimacy, including representation and accountability (Saward 2006; Dryzek & Niemeyer 2008; Hendriks 2009), participation (Conley & Moote 2003; Boedeltje & Cornips 2004), and the flow of information between government and non-government actors (Rowe & Frewer 2005). We examine each of these factors in relation to the process undertaken by a committee established in Canterbury to work collaboratively and make recommendations about freshwater management.

2.2. Conceptual foundations of collaborative planning

The collaborative planning model sits within the paradigm of deliberative democracy, often associated with the philosophy of the German sociologist, Jürgen Habermas. The theory of deliberative democracy posits that, for a democratic decision to be legitimate, if must be based on authentic deliberation (Cohen 2003). Habermas (summarised in Innes & Booher 2010) proposed that authentic deliberation requires that all the affected interests jointly engage in good faith in face to face dialogue, bringing their various perspectives to the table to deliberate on the problems.

Collaborative governance, collective management and other variants have been widely touted as approaches to deliberative democracy that meet these essential requirements (see for example Healy 2006; Ansell & Gash 2007), especially following the award of the Nobel Prize for Economics to Elinor Ostrom for her work on collective management of common pool resources (Ostrom 1990). But deliberative democracy based on collaborative decision-making has also received strong criticism. Foucault, for example, argued that deliberations of a group can never be truly democratic because not everyone can be included, and because power imbalances are inherent in all person-to-person communications (Foucault 1984). These themes have been echoed in various forms by other critics (Flyvbjerg 1998; Farber 2000; Connelly & Richardson 2004).

This report focuses primarily on Habermas' assertions regarding representation and participation—that all affected interests be involved in deliberations—and specifically, how people not directly involved in the deliberations perceive the legitimacy of the approach.

2.3. Interest groups and the public interest

One of the challenges of collaborative management is that of representation, *i.e.* how various interests and perspectives should be represented in a collaborative group or process. This was identified above (Section 2.1) as one of the key elements of input legitimacy. While elections can be held to choose representatives of the general public to sit on legislative bodies, collaborative processes as described by Habermas and others generally assume that interested parties represent themselves. These interested parties are typically represented through formal and informal groups or associations: so-called interest groups.

In a landmark book, Olson (1965) explained that interest groups tend to have a disproportionate influence on public policy because for most members of the general public, the benefits of working together ("collective action") are too thinly spread and there is a strong tendency to not get involved. Interest groups, in contrast, are small enough for members to capture the benefits of their political action, and hence have a strong incentive to organise and act collectively. As a result, the interests of the majority are often underrepresented—what Olson called the problem of collective action. The question for collaborative management, then, is how to overcome this problem and avoid becoming just another vehicle for capture of public policy by special interests.

Rydin and Pennington (2000) also highlighted the potential for public participation to be captured by special interests:

> A notorious problem, which strikes at the heart of arguments for expansion of public involvement, has been the apparent difficulty of actually achieving effective participation by all sections of the public. This situation has frequently resulted in selective participation by vocal and well organised interest groups in negotiation with the professional bureaucracy, with the costs of policy failure spread across non-mobilised sections of the community (Rydin and Pennington 2000, p. 156).

Rydin and Pennington suggested that capture by special interests results in distortion of the information available to policymakers (p. 159). They concluded that, where the underlying collective action problem is severe, institutional redesign to promote public participation is unlikely to be effective. In such situations, the state will need to take a 'controlling role in order to have any chance of solving the problem' (p. 165).

Despite opportunities for wider public participation, the reality of politics is that politicians often respond to interest groups, both in small group processes and in elections open to all voters (Freeman 1997; Farber 2000; Pløger 2001; Connelly & Richardson 2004; Freeman & Farber 2004). As stated by Farber:

> To prevent capture of the governance process by special interests, public participation seems critical. Yet, it is unclear how representatives of the public interest should be selected. What grounds do we have for believing that leaders of any particular group will act so as to further the interests of the general public? Indeed, there may be pressures on these leaders to disrupt the process so as to dramatize their idealistic commitments to members… (Farber 2000, p. 75).

An important question concerning collaborative planning processes, then, is how representation, *i.e.* the selection and accountability of members of a collaborative stakeholder group, affects the legitimacy of the process as perceived by interest groups and the public.

In a study of Canterbury water governance, Nissen (2014;, p.37) argued that 'descriptive representation'—a claim of representation based on a person's background or interests rather than any formal accountability—can act as a form of exclusion. This occurs especially when the selection process is not open and those appointed are not accountable to those they are claimed to represent, as is the case in the Canterbury zone committees. Thomas (2014) found that this lack of accountability resulted in a degree of disconnection between the zone committee members and the general public.

Nissen recommended that collaborative groups should be kept at some distance from actual decision-making because they are not representative. This is consistent with

others (Flyvbjerg 1998; Rydin & Pennington 2000) who cautioned about the potential for policy capture by elites in collaborative efforts. However, this conclusion runs counter to some of the prominent scholarship on collaborative planning, which argues that to provide an incentive for stakeholders to reach consensus, decision makers should indicate in advance their willingness to support and implement collaboratively agreed recommendations (Innes & Booher 2010). Thomas (2014) suggests that the willingness of the regional council to overturn a zone committee recommendation in the Hurunui-Waiau zone (see also Memon *et al.* 2012) constrained the prospect of genuine collaboration in Canterbury.

A preliminary review of the Hurunui-Waiau process asked how far beyond the zone committee itself was there support for its recommendations, and 'whether consensus around collaboration and the Strategy is anchored to the energy of zone committee members' (Memon *et al.* 2012, p.12). The review noted that the committee 'was limited in its constitution as a truly collaborative process, particularly to the extent that its membership was handpicked' (p.12). The authors described "levels of inclusion" as concentric circles with the zone committee at the centre and, further out, people with decreasing levels of engagement (see Figure 1). The outside circle includes 'stakeholders that were excluded from the process or who chose not to participate'.
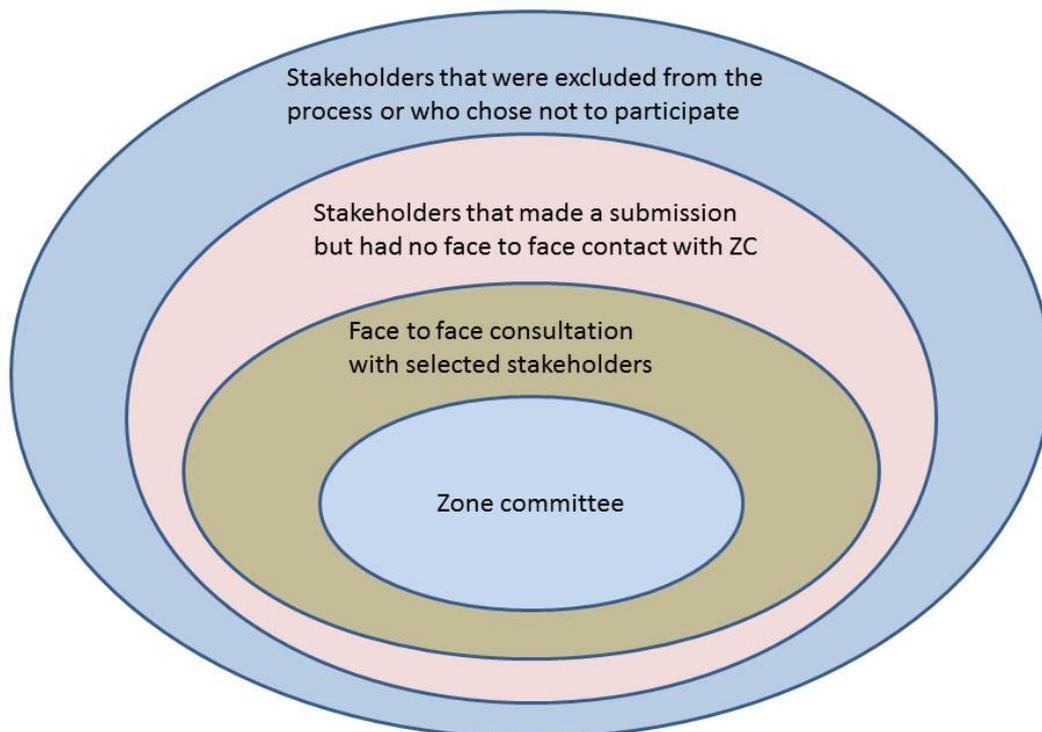
Figure 1.   Levels of inclusion of the Hurunui-Waiau Zone Committee process as described by Memon *et al.* (2012, p.13)

In conclusion, it has been claimed that collaborative approaches are better suited for addressing complex environmental problems and will increase both the durability and the legitimacy of planning outcomes. Our research concerns the latter, on which the literature has raised a number of questions, including how far any legitimacy achieved extends beyond the collaborative group itself. To explore this, we turn to a case study in the Selwyn District in the Canterbury region of New Zealand.

3. COLLABORATIVE PLANNING IN SELWYN DISTRICT, CANTERBURY

In 2009, after more than a decade of debate over how to manage declining water quality and the growing demand for irrigation, the Canterbury Regional Council (also known as Environment Canterbury, or ECan) joined forces with the city and district councils within its boundaries to prepare the Canterbury Water Management Strategy, or CWMS (Canterbury Water 2010). This strategy set targets for both protection and development of water resources to be achieved by 2040, within a nested governance framework with national, regional and sub-regional levels. A regional committee and ten sub-regional zone committees determine how the CWMS targets will be implemented and achieved. The regional committee and the zone committees are all formal joint committees of the participating councils, and all operate on principles of consensus and collaborative planning (Canterbury Water n.d.).

In October 2009, a few weeks before the CWMS was formally released, the Government announced a review of ECan's performance, citing concerns about consent processing times and delays in getting a regional plan approved[1]. The Government announced the outcomes of the review in late February 2010, and soon after enacted the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010. The new legislation replaced elected regional councillors with appointed commissioners for three years, gave legal status to the vision and principles of the CWMS, effectively cancelled a Water Conservation Order process, and severely curtailed rights to appeal the commissioners' decisions. The terms of the commissioners were later extended another 3 years, until 2016 elections, by section 7 of the Environment Canterbury (Temporary Commissioners and Improved Water Management) Amendment Act 2013.

Now governed by government-appointed commissioners, ECan proceeded with the establishment of the zone committees signalled in the CWMS. With the local councils and iwi representatives, ECan advertised for applications for zone committee members, conducted interviews, and selected members taking into account 'the balance of interests required for the Zone, geographic spread of representatives and the ability of the applicants to work in a collaborative, consensus-seeking manner' (Canterbury Water n.d., p.1). The recognised Māori authority in the area, Te Rūnanga o Ngāi Tahu, also appointed members to each committee, as did the regional council and each district or city council for the relevant zone. The zone committees are formal joint committees of the regional and district (and / or city) councils, elect their own chairpeople and are subject to open meeting laws. The committees must not compromise the councils' 'freedom to deliberate and make such decisions as they deem appropriate' and have no authority to make submissions in their own right on

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[1]See various documents on the Ministry for the Environment webpage on the Environment Canterbury review, http://www.mfe.govt.nz/rma/rma-monitoring/review-and-investigations-local-authorities/environment-canterbury-review-1

proposed resource management plans or consents (Canterbury Water n.d., p.1). In other words, all formal decision-making authority under the RMA is retained by ECan.

The Selwyn-Waihora Zone Committee, which is the focus of this research, was established in 2010 and produced its zone implementation plan (ZIP) in 2011 (Environment Canterbury 2011). The committee has also issued a 'ZIP addendum' to address issues that were unresolved in the initial ZIP, especially questions of cumulative limits on diffuse nutrient pollution and how to allocate nutrients amongst multiple users (Environment Canterbury 2013).

Throughout this period, and especially as ECan has translated zone committee recommendations into rules in its regional plan, the CWMS process has been publicly criticised as, for example, unfair (Fulton 2014), unrepresentative (Rodgers 2014), and lacking transparency and accountability (Robinson 2014). In an open letter to ECan Commissioners in 2013, a block of environmental non-government organisations[2] asserted that the zone committees are unrepresentative—dominated by farming and irrigation interests—and that the commissioners should seriously consider amending the process 'to avert a complete loss of faith in your governance by the environmental sector' (Miller 2013, p.1).

Thus, rather than building trust, it would appear that collaborative planning as practiced in Canterbury may be undermining it. A report prepared for ECan asked 'whether consensus around collaboration and the Strategy is anchored to zone committee members? If so, this is clearly unsustainable' (Memon *et al.* 2012, p.12). The authors added that the Hurunui-Waiau Zone Committee was 'limited in its constitution as a truly collaborative process, particularly to the extent that its membership was handpicked. …the possibility of alienated, disaffected or "unconsulted" stakeholders may need to be considered'.

Public perceptions of the collaborative processes underway in Canterbury may have been influenced by the replacement of democratically-elected councillors in 2010, just as ECan was embarking on its collaborative model. The zone committee process has therefore been overseen by Government-appointed commissioners rather than elected councillors. In July 2015 (after we conducted our focus groups), the New Zealand government announced that, in 2016, ECan would move to a mixed council of seven elected councillors and up to six appointed commissioners, as a transition to a fully elected council in 2019 (Smith & Upston 2015).

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[2] Forest & Bird, Orari River Protection Group, Fish & Game, Water Right Trust, Our Water Our Vote, Malvern Hills Protection Society, B.R.A.I.D., and Canterbury Aoraki Conservation Board.

4. RESEARCH METHODS

4.1. Level of engagement

This research explores how modes of representation and participation (*i.e.* political engagement) affect the legitimacy of Canterbury Water Management Zone Committee outcomes as perceived by members of the Canterbury community. To differentiate levels of engagement, we follow Memon *et al.* (2012) in positing that the public can be divided into four groups (Figure 2). These are (1) zone committee members, who are directly involved in the planning process, (2) people who made a direct input to the process through workshops (engaged inner circle, who we call 'workshoppers'), (3) people who were aware of the zone committee process but had input only 'at a distance', *e.g.* via submissions (engaged outer circle, or 'submitters'), and (4) people who were excluded from or unaware of the zone committee process (unengaged outer circle, or general public).

We were interested to find out how stakeholders' acceptance of (*i.e.* the perceived legitimacy of) the zone committee process varied with the level of engagement. As Memon *et al.* (2012) stated, if support resides only with zone committee members, this would raise questions about the sustainability of the approach, because interest groups (workshoppers and submitters) and possibly the wider public are likely to challenge the outcomes. Although this challenge cannot occur in Canterbury through the Environment Court in respect of the merit of regional plan provisions (and potentially more widely across New Zealand if central government's proposed reforms are achieved), it can occur through community disengagement, resistance and non-compliance in the implementation of the policies, rules and provisions of 'fast-tracked' regional planning instruments. In Section 6.1, we cite an example from the Hurunui-Waiau Zone Committee where such a scenario is playing out.
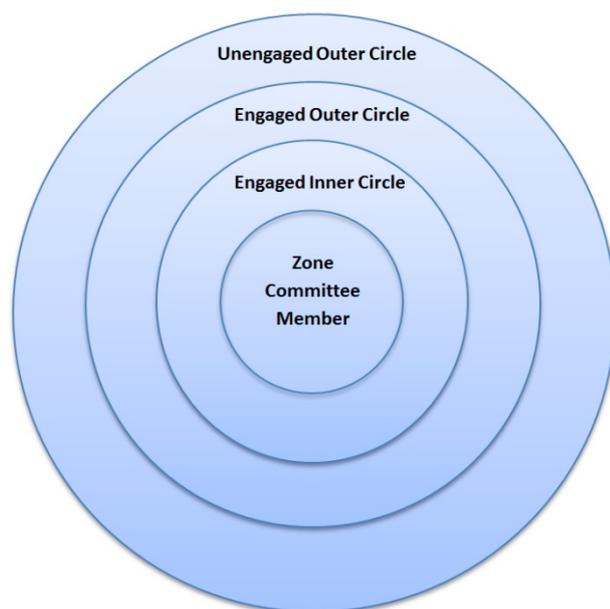
Figure 2.   Levels of engagement of community members affected by zone committee decisions

4.2. Street survey

Data were collected using two methods. To complement the focus groups described in the next section, a street survey was conducted at midday on 18 June 2014. Two members of the research team, working separately, approached people on the main street of Darfield, Canterbury, and asked a list of questions about the zone committee process (Appendix 1). Essentially the survey asked whether people had heard of the Selwyn-Waihora zone committee and, if so, what they knew about it and whether and how they felt represented in the process.

4.3. Focus group meetings and participant classification

The major component of the research consisted of three focus group[3] meetings conducted in the Selwyn-Waihora management zone in June 2014, held at Rolleston, Darfield, and Dunsandel.

Participants for the focus groups were recruited in three ways. The unengaged outer circle (general public) was recruited by asking the parent-teacher association of a local primary school, in return for a modest donation, to find 10 people to participate in a focus group on 'an environmental issue'.

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[3] We distinguish here between the focus groups conducted by the authors and the workshops (also referred to as focus groups by Environment Canterbury) convened during the Canterbury zone committee process. For clarity, we hereafter refer to the former as 'focus groups', and to the latter as 'workshops'.

For the engaged inner circle (workshoppers), every fourth name was selected from a list of participants in Environment Canterbury workshops on freshwater management, accessed from the council's website. Participants from the engaged outer circle (submitters) were randomly selected in a similar manner from a list of people who had made submissions on the recent Zone Implementation Plan for Selwyn-Waihora. In both cases, people selected but unable to attend were asked to nominate others and all who attended were offered a $20 petrol voucher. One person identified from submissions was a member of the regional committee that sits above the zone committee; he was not selected but was invited to nominate someone else who did participate.

As per the ethics policy of the Cawthron Institute, potential participants were sent information about the focus groups and a consent form in advance. Among other things, the consent form stated that individuals would not be quoted by name and that the group would follow the Chatham House Rule, described as follows –

> You may tell others in general terms what was discussed in tonight's meeting, but we and you must not quote people by name or otherwise refer to who said what in a way that others will be able to identify who we are referring to. – Consent form

Participants were given a further opportunity to ask questions upon arrival, before being asked to sign the consent form. They were told that they could leave at any time if they became uncomfortable. In quotations used in this report, all participant names have been changed to pseudonyms to protect their privacy.

The three focus groups were attended by a total of 22 people. There were 12 female and 10 male participants (Table 1) from a variety of backgrounds, including six farmers, two council staff members, one member of a recreation group (whitewater kayaker), one from an environmental group, and four members of community groups (Table 2). The Darfield focus group was dominated by farmers, with one recreation group representative, whereas the Dunsandel group consisted of five with community and environmental interests and two farmers.

Eight participants, all at the Rolleston focus group organised by a school parent-teacher association, reported no group affiliation. While this focus group targeted the general public, two of the participants worked for local councils. They were not directly involved with the Selwyn-Waihora zone committee so were classified as engaged outer circle (submitters). Focus groups in Darfield and Dunsandel targeted people who were engaged in the process in some way. Of the 12 who attended these, we classified eight as engaged inner circle (workshoppers) and four as engaged outer circle (submitters).

Table 1   Gender balance of focus group participants by level of engagement

Level of engagement	Male	Female	Total
Workshoppers	6	2	8
Submitters	3	3	6
General public	1	7	8
Total	10	12	22

Table 2   Group affiliation of focus group participants by level of engagement

Level of engagement	Farmer	Recreation group	Community group	Environment group	Council Staff	None	Total
Workshopper	5	0	3	0	0	0	8
Submitters	1	1	1	1	2	0	6
General public	0	0	0	0	0	8	8
Total	6	1	4	1	2	8	22

4.4. Data and data analysis

As stated, for purposes of data analysis, focus group participants were classified as workshopper, submitter, or general public, based on the information they supplied about their involvement in the zone committee process.

The focus group discussions were semi-structured, *i.e.* based on a list of questions (Appendix 1) while allowing the discussion to wander into topics of importance to the group. Two researchers facilitated the discussion, while a third took notes.

The focus group sessions were recorded, transcribed, imported into NVivo[4], and coded using a mix of descriptive and analytic coding to identify important themes relating to representation and legitimacy. Descriptive codes reflect themes or patterns stated by focus group participants. Analytic codes 'reflect a theme the researcher is interested in or one that has already become important in the project. Analytic codes typically dig deeper into the processes and context of phrases or actions' (Cameron 2005, p. 283).

Drawing upon the literature reviewed in Section 2, the following themes were used in coding:
- Representation

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[4] nVivo is a computer software package for qualitative data analysis. See
http://www.qsrinternational.com/products_nvivo.aspx.

- Participation and equal opportunity
- Accountability
- Information and communication
- Legitimacy of outcomes

A further theme emerged from the data, and was also coded:

- Transparency

The results of this coding are described in the next section of this report.

5. RESULTS – STAKEHOLDER PERCEPTIONS OF THE SELWYN-WAIHORA ZONE COMMITTEE

Section 5.1 presents results from the street survey, while the following sections present the results of the focus groups. Focus group results are presented under two broad themes. The first identifies aspects of Canterbury's collaborative planning *process* of concern to research focus group participants at different levels of political engagement. The second section explores the extent to which people at different levels of political engagement ascribe legitimacy to the *outcomes* of the process.

5.1. Street survey

The street survey was conducted to obtain an indication of the awareness of the zone committee process amongst the general public. The sample was very small (12) and biased in that only those present on the main street of one rural town on a weekday morning were interviewed, so care must be taken in drawing inferences from this survey. Of the 12 people interviewed, six identified as retirees, with the rest comprising a mix of occupations including pharmacist, publican, mother, dairy farmer, and sheep and beef farmer. All were local residents. None of the respondents said that they belonged to an organisation involved in the zone committee process, and none had ever been involved in water management issues or planning processes.

Knowledge of the Selwyn-Waihora Zone Committee was low amongst those surveyed. Half (six) had heard of the committee and, of those, only three cited either 'water' or 'irrigation' as their understanding of what the zone committee does. The other three said they did not know. One said that the zone committee's purpose was "to ensure better access to water", and another said it was "to stop *E. coli* pollution". Those two people correctly identified that the zone committee members were appointed by the councils. No survey participants could name a zone committee member.

5.2. Legitimacy of process

The following sub-sections summarise the statements made in the three focus group meetings, organised by the aforementioned criteria for successful collaborative processes (Cradock-Henry 2013): representation, accountability, transparency, participation, equal opportunity and resources, and information and communication.

5.2.1. Representation

> *The first condition of successful collaboration is that it must be broadly*
> *inclusive of all stakeholders who are affected by or care about the issue*
> (Chrislip & Larson 1994, cited in Ansell & Gash, p.554)

Focus group participants raised several aspects of representation that affected their
perceptions of the Selwyn-Waihora zone committee. These were the appointment
process, the absence of affected stakeholders in the collaborative process, the
erosion of democracy, and the appointment of ineffective representatives.

Representation: engaged inner circle (workshoppers)

Representation was often discussed by workshoppers, who argued both for and
against the appointment of zone committee participants. Some argued that
appointments are justified because local elections typically suffer from low voter
turnout, insufficient information on local representatives, and a local constituency that
is uninformed about the candidates. It was implied that replacing the appointment
process with elections as a means of 'fixing' the perceived loss of democracy would
face the same challenges. For example,

> "You're talking about the democratic process which is the great ideal but…
> democracy has its flaws as well… [the zone committees] have some appointed as
> well as elected [participants], and I think that's got a lot of merit..."
> —Paul, community group, workshopper, Dunsandel

Those arguing against the appointment of zone committee members typically
portrayed this as an unacceptable loss of democracy. In the following comment, a
participant appears to refer to the loss of elected councillors as well as the fact that
zone committee members are appointed rather than elected.

> "We have a process for dealing with [water management]….it's called elections,
> where you elect people and then the people elected represent you. They set up a
> process by which they get their experts around the table to discuss this sort of thing.
> It's called planning. Unfortunately we've gone away from that and adopted a system
> that is completely different and which we're trying to say is collaboration and is better
> than planning… Yes, there's quite a good feeling about the nutrient setting limits and
> process, but there were what, 60 to 90 people who were involved in that? …out of a
> community of I don't know how many thousand… We used to have a process, it was
> a democratic one. It was an elected one with ratepayers represented."
> —Henry, community group, workshopper, Dunsandel

Participants also highlighted the lack of representation of various communities and
interests in the Selwyn-Waihora Zone Committee process.

> "…I felt that smallholders, lifestyle block people, were largely not represented. I
> suggested ECan try and make some connection with them, but as far as I know

nothing happened. I know there is an organisation of small holders, but I don't know if ECan ever approached them or not."
—Henry, community group, workshopper, Dunsandel

At Darfield, it was noted that groups are sometimes lumped together in discussions about representation of interests, when they actually comprise many diverse sub-groups. It was suggested, for example, that farmers are commonly categorised, and spoken for, as a single group when, in reality, multiple farming communities exist and may be characterised by farm type, size, or management structure.

Representation: engaged outer circle (submitters)
The above points were also of concern to participants classified as submitters. Regarding the reduction in democracy brought about by the appointment of zone committee members, Jessica stated that,

> "I'm really intrigued how some people can say it is better than having elected councillors because democracy is such a precious thing... if it's a truly collaborative process, you don't just cherry pick [zone committee participants]…"
> —Jessica, environmental group, submitter, Dunsandel

> "[They should] have a checklist of every single community and make sure that there is some way of involving them because we just get left out … and we're right on the edge of the lake."
> —Charlotte, community group, submitter, Dunsandel

Another submitter said the person from her community group that was selected to attend the workshops was not effective or accountable.

> "…he was invited on because he was the Chair… but he really didn't understand anything about the water issues from the [group's] perspective, because I would talk to him about it and he had no idea. He just thought it was quite nice that he was invited to the workshop. But he felt no sense of responsibility of sharing anything back with the community or asking for any community [input]…"
> —Charlotte, community group, submitter, Dunsandel

This sentiment was shared by another focus group participant who expressed a lack of confidence in a zone committee participant who had the same occupation and who, presumably, was appointed by ECan to contribute information and perspectives from his sector. This serves to highlight that members of a group do not necessarily feel represented in a process just because there is someone with the same occupation on the collaborative group, or even from their group, if there is no accountability back to the group being represented.

Representation: unengaged outer circle (general public)

Participants classified as general public had a less nuanced critique of representation. Indeed, the fact that most of the general public participants did not understand how they were being represented in the process was a matter of concern.

> "I guess ten of us are here and only three of us have ever heard of this committee so how are people going to be made aware of the process? I'm sure if… a decision is going to affect you immediately then you're probably made aware of it, but what about other people in the community who might want to have a say in it?"
> —Jasmine, unaffiliated, general public, Rolleston

Because seven Rolleston participants were unaware of the zone committee process, the research team explained that selection of zone committee members occurs through ECan appointments. Regarding how views and values of the community are gathered, a participant said he was aware that the rūnanga representatives discussed issues with their boards. The researchers added that there were some public meetings and workshops, but that the committee also relied on organisations to provide input from their members. This drew unanimous disapproval from general public participants, who felt that they are unable to contribute their views because that they are not members of interest groups.

> "…personally I couldn't identify a single interest group that I'm confident would be able to communicate information to me as a member of the community. So I don't know if everyone else may have one, but if [the council] says that this community group is represented or that interest group was represented then it would be a good pathway for information to be fed back. For me personally I couldn't pick one."
> —Thomas, unaffiliated, general public, Rolleston

A common sentiment was that wider community interests are not adequately represented, and the appointment process was of particular concern.

> "Who is doing the shoulder tapping? Is it the Council? Are we actually being represented?"
> —Jasmine, unaffiliated, general public, Rolleston

A focus group participant who worked for one of the councils responded –

> "The shoulder tapping is because I think they struggle to get people, which comes back to, well, maybe it's not disseminated enough around the community. … I think the process, from what I've seen, is representative of the community's views, not that I know everybody in the community … because otherwise you might also get into the problem of what's an interest group and why this interest group and not that interest group?"
> —Barbara, unaffiliated, submitter, Rolleston

Summary: Representation
Participants at all levels of political engagement were concerned that many of the Selwyn-Waihora community are not represented in the zone committee processes. Concerns centred on two factors: the absence of affected stakeholders in the collaborative process, and the appointment process and the associated loss of democracy. There was also concern expressed by the submitters that the appointment process had failed to select capable representatives to attend the workshops, and mixed views about the role of interest groups in the process.

5.2.2. *Accountability*

The process and its participants are accountable to the broader public and their own constituencies (Cradock-Henry 2013, p. 2).

Accountability: engaged inner circle (workshoppers)

A perception that the Selwyn-Te Waihora Zone Committee lacks accountability permeated comments from workshoppers. With particular regard to the selection of zone committee members, one participant noted:

> "I think there is still confusion about [whether] people have been selected because of their affiliation to a particular sector, so environment or fishing or whatever. It might be - but they're [actually] there as individuals and they're speaking on their own behalf. They're not representing the views of any group and they're not obliged to actually consult or discuss anything… there are actually no lines of communication between that individual and any other groups out in the wider community necessarily."
> —Amelia, community group, workshopper, Dunsandel

It was noted that some zone committee members are more accountable than others due to their role in the community, for example the Māori members are appointed by and can be replaced by their rūnanga. And elected local councillors who sit on zone committees are more accountable than zone committee participants who were simply appointed, in the sense that elected councillors must stand for re-election every three years. Appointed zone committee members must apply to Environment Canterbury if they wish to be re-appointed when their three-year terms expire.

Accountability: engaged outer circle (submitters)

The above statements were endorsed by a participant in Dunsandel, who was from a community group and classified as a submitter.

Accountability: unengaged outer circle (general public)

Participants classified as general public were not familiar with how zone committee members were selected, but reacted negatively to our explanation that members were appointed as individuals rather than representatives of groups.

"If they are all individuals who possibly have their own agendas and own thoughts
and they're making these decisions on behalf of everybody, where is the
accountability for them?"
—Jasmine, unaffiliated, general public, Rolleston

Summary: Accountability

Accountability was of concern to members at all levels of political engagement.
Peoples' key concerns about accountability relate to 1) the lack of communication
between zone committee participants and the community, and 2) the fact that zone
committee participants are instructed to "contribute their knowledge and perspective
but not promote the views or positions of any particular interest and stakeholder
group" (Environment Canterbury n.d.). Hence, although there was concern about how
broader community views could be represented through interest groups, there was
also concern about the accountability of representatives with no formal affiliation and
purporting to represent the community, who might have their own agendas.

5.2.3. Transparency

*Process transparency means that stakeholders can feel confident that
the public negotiation is 'real' and that the collaborative process is not a
cover for backroom private deals* (Ansell & Gash 2007, p.557)

*Governance networks and their key policy decisions should be visible to
the general public, and their public accounts for why and how the
governance networks made these decisions, and with what results,
should be comprehensive, informative and accessible for lay people*
(Sorensen and Torfing 2005, p.210).

Transparency: Engaged Inner circle (workshoppers)

Some of the focus group participants said they thought that the council had its own
agenda for the outcomes of zone committee process. Asked whether the outcomes of
the zone committee process are legitimate, one said,

"…all in all, where the planners have listened to what the zone committee said - and
they certainly haven't listened to everything they've said - it's been good. But where
the agenda that was on the table at the beginning of the process is still on the table
at the end of the process unmodified, that's when we have a problem."
—Sam, farmer, workshopper, Darfield

This sentiment was shared by workshoppers and submitters; however, beliefs about
the nature of the political agenda differed by stakeholder group. For example, those
from environmental and recreation backgrounds considered the agenda was to secure
more water for the dairy industry, while some farmers considered the agenda was to
curtail farming and increase environmental safeguards. This difference of opinion can
be seen in the following exchange.

"The way in which ECan facilitated the process was largely looking at how can we get more water for the farmers in this district. That seemed to be the prime raison d'être."
—Dean, recreation group, submitter, Darfield

"No, their raison d'être is the CWMS and its goals, and they are the development of communities…"
—Lisa, farmer, workshopper, Darfield

"I don't think ECan would have been pushing for farmers to get more water, I would be quite astounded…"
—Sam, farmer, workshopper, Darfield

The translation of zone committee recommendations into planning documents by council staff also fuelled participants' suspicions of a government agenda. Similar concerns were expressed in regard to ECan staff's summary of workshop recommendations to the zone committees.

"…for me the [workshop] process was so everyone could understand the science of the hydrology of the rivers, for everyone to understand each other's values and expectations and try to remove some staff agendas of Environment Canterbury. And they still overrode some of the recommendations from the [workshop]! That was the most annoying thing, most of the parties who are part of it… we found a common ground and understood each other but when the recommendations went forward, and a lot of them got drafted out by staff. I found that frustrating."
—Robert, farmer, workshopper, Darfield

Finally, concerns about transparency extended to the working groups surrounding the zone committee process. As explained by Amelia,

"I don't know the details but there was a hell of a lot going on in the background that those who were at those meetings were never made aware of. There were all kinds of little working groups, particularly the industry advisors and the rūnanga. They were all meeting behind the scenes and coming up with everything that didn't involve the wider groups so there was a lack of transparency in what was actually happening."
—Amelia, community group, workshopper, Dunsandel

Transparency: engaged outer circle (submitters)
While not discussed in much detail by submitters, the points about transparency raised by workshoppers were also flagged by one submitter.

"Clearly the ECAN commissioners have a mandate but it's never ever been spelled out so it's not clear and transparent although we obviously can guess they're doing the work of central government and this is why I think it's entirely political…it's being driven by a central government mandate for more irrigation, for more dairy."
—Jessica, environmental group, submitter, Dunsandel

Additionally, she argued, collaborative stakeholder groups' recommendations are filtered by government - both in Canterbury and the New Zealand-wide Land and Water Forum, comparing these with the experience in Nordic countries.

> "…The Scandinavian community is probably less confrontational in some ways and also their government says… 'ok you guys sort it out and what you come up with is what you get'. Where here it's, 'you all go away and talk and if it suits us… [we'll implement it].' Like the Land and Water Forum, where they took away one of the most important things around nutrient limits and toxicity limits."
> —Jessica, environmental group, submitter, Dunsandel

Transparency: unengaged outer circle (general public)

Most participants in the general public were not aware of the Selwyn-Waihora zone committee, and accordingly there was a strong feeling that the process was not transparent and that this detracted from its legitimacy. Asked what would make for a legitimate process and decision, one participant said,

> "For me if you're aware of a process and if you contributed or at least you were aware that you had the opportunity to, then you can't object if you don't participate. You can't object with the decision if you had the opportunity."
> —Thomas, unaffiliated, general public, Rolleston

Summary: Transparency

The results suggest some differences in the concerns about transparency of the zone committee process. Workshoppers and submitters had similar concerns regarding lack of transparency and an associated perception of a political agenda behind the Selwyn-Waihora collaborative process. Key concerns were (1) the way zone committee and workshop recommendations are translated into planning documents by ECan planners, and (2) the role of central Government appointed commissioners in the process. The general public, on the other hand, focussed on the lack of information they had received about the process.

5.2.4. Participation: Equal opportunity and resources

> *The process provides for equal and balanced opportunity for effective participation of all interested/affected stakeholders.*
> (Cradock-Henry 2013, p. 2)

Participation: engaged inner circle (workshoppers)

Of the workshoppers, farmers at Darfield said that participation in the zone committee process should be limited to local residents. Their concern related to people from outside the region who perceive farmers as 'bad guys' and their practices as 'dirty', and want to regulate farming practices.

The high time demands on zone committee members were noted by a focus group participant who had initially stated that only people that live in a water management zone should participate. When reflecting on his experience some months before when seeking the input of a local rūnanga representative in a workshop, Sam stated that,

> "I think the demands on their time were so much. It's that same old thing - you get a few people who are prepared to do everything and nobody else wants to do anything so those people just get burned out."
> —Sam, farmer, workshopper, Darfield

The issue was also brought up at Dunsandel, where the discussion centred on the high demands on zone committee participants' time and energy. For example,

> "…I don't know that anyone anticipated ... the amount of time that those individuals were going to have to put in… particularly the reading of all the material and attending workshops and meetings. I think originally, did they say that it was three or four meetings a year? And it's probably ten times that. Well it's one a month of the formal meetings and then they have meetings in between and sub-committee meetings and workshops and field trips!"
> —Amelia, community group, workshopper, Dunsandel

This point also was noted by submitter participants. They suggested that the zone committee may not attract the best people because members receive only a small honorarium and travel allowance for their considerable efforts.

Other workshopper participants said that unequal opportunity between zone committee members and the wider community could occur due to the short submission timeframes on proposed plan changes from zone committee processes. This has an exclusionary effect on community participation, given that individuals and community organisations require time to compose a well-researched and considered submission.

> "One thing that really annoys me about ECan at the moment is Variation One. They had a meeting like a week, two weeks before the submissions closed. … as soon as the two hours were up they wouldn't have any more questions and it was time to go. I was bloody annoyed! That wasn't on!" Sean, farmer, workshopper, Dunsandel

> "… you have what, 20 working days or something to put in a submission? They have the benefit of all their experts and their technical information. [Environmental non-government organisations] … and the individual person has none of those resources whatsoever. It's an entirely undemocratic, non-transparent, smoke and mirrors process…"
> —Amelia, community group, workshopper, Dunsandel

Concerns about short timeframes for submissions can also arise with more conventional consultation processes, although this was not mentioned in the focus groups.

Participation: engaged outer circle (submitters)

At Darfield, a participant from a recreation group argued that non-residents should be allowed to participate in the zone committee process, because they also use and value water bodies. For example, kayakers have a strong interest in freshwater management despite many of them living outside the zones in which the rivers are located. However, participation in the numerous zone committee and workshops can be onerous for under-resourced community organisations. As Dean explained,

> "I think anyone who wants to join them [the zone committees] should be able to join them but I would also add a problem... I live in Christchurch, there are ten zone committees in the region and I can't physically travel [to them all]. I think if I went to all the Zone Committee meetings, there's something like a 160 happening a year… it's really difficult."
> —Dean, recreation group, submitter, Darfield

In contrast, the view that people from outside the region should not be able to participate in local planning issues was expressed by several submitters, including members of community and environmental groups. Referring to a submission from a national farming organisation, Charlotte said about people from outside the area:

> "…they don't have to deal with it, they don't have to look down at the river and it's green because of algae blooms… I just thought it was unfair that you would have people being able to comment like that who didn't actually have to deal with it".
> —Charlotte, community group, submitter, Dunsandel

Participation: Unengaged Outer circle (general public)

Similar sentiments were expressed by participants of the general public, who felt that there was an uneven playing field in terms of time and resources available to the different sectors of the community.

> "…money talks, a corporate can represent itself a lot better than local community. Is that an unfair assumption? Can Fonterra represent themselves with a team of legal staff to counter arguments represented by local family who have heritage in an area?" —Thomas, unaffiliated, general public, Rolleston

> **Summary: Participation**
>
> In summary, there are a number of concerns about opportunities for participation in the zone committee process, and some evidence of stratification by level of political engagement. Several concerns were expressed by submitters and workshoppers. These are (1) the onerous requirements of participating in the many zone committee and workshops throughout the Canterbury region, (2) the perceived inadequate honorarium for Zone Committee participants, and (3) the short timeframes for submissions. There were differences of view on whether people from outside the zone should be allowed to participate in the planning process.
>
> Concerns held by all levels of political engagement are that (1) better-resourced, larger organisations can better deal with the three points above, and (2) there are insufficient opportunities for the general public to participate.

5.2.5. Information and communication

> *The effectiveness of a public participation exercise "may be ascertained by the efficiency with which full, relevant information is elicited from all appropriate sources, transferred to (and processed by) all appropriate recipients, and combined (when required) to give an aggregate/ consensual response."*
> (Rowe and Frewer 2005, p. 251)

Information and communication were also frequently referred to in the focus group sessions, and are closely related to other criteria, including accountability, transparency and participation. Focus group participants of all levels of political engagement perceive, and are concerned about, a lack of information and communication by ECan with the general public on matters of freshwater planning and the zone committees.

Information and communication: Engaged inner circle and engaged outer circle (workshoppers and submitters)

Workshoppers and submitters at Darfield and Dunsandel concurred that there was a lack of communication with communities about the zone committee process. Participants acknowledged that a substantial body of information exists on ECan's website, but said it is hard to find and difficult for many people to understand. The difficulty relates to the technical language in which the reports are written, as well as the sheer amount of information.

> "If you really start burrowing away in the ECan website, a lot of information is there. It's really hard to find so it doesn't make it easy for people in the community to actually get an understanding of what they're talking about and what they're basing their discussion on."
> —Amelia, community group, workshopper, Dunsandel

Focus group discussions also acknowledged that communicating with the general public is not necessarily an easy task. The resources required for effective communication can be significant, and information provided is often ignored by the target audience. The latter point was discussed at Rolleston by general public participants. They noted that, while they might not actually take any notice of freshwater management information, if they had the information then they could decide whether and how to participate.

Information and communication: unengaged outer circle (general public)
Insufficient information about the zone committee's establishment, existence, purpose, and goals were recurring concerns amongst general public participants–many of whom are directly affected by zone committee decisions. The fact that few of the focus group participants had received any information rankled many. For example,

> "I was just thinking, I live right on the lake, it's 50 feet away and you just wonder, if you were doing a leaflet drop wouldn't you leaflet drop around the waterway that's being discussed? I don't know, I've never heard of this yet it's on my front doorstep!"
> —Jasmine, unaffiliated, general public, Rolleston

Several participants noted that they regularly read the local newspaper and are active users of online social media, yet were unaware of the zone committee process. Visiting the ECan website is not part of their daily routine, and not something they would think to do. The need for more communication was articulated by Thomas, who framed the issue in terms of community members' right to have their views represented:

> "…for the seven of us who hadn't heard of the committee, awareness is the starting point. An understanding of the role of the zone committee will lead us to know how we can have our views represented. We need to have an understanding of how the committee is formed. The fact that it has elected members and non-elected members… if you want us to become involved that information needs to be publicised."
> —Thomas, unaffiliated, general public, Rolleston

Echoing comments about transparency, the suspicions that can result from a lack of communication were highlighted by Tania:

> "…it's almost like if [ECan] doesn't say too much about it, not too many people will know and [they] will get it pushed through."
> —Tania, unaffiliated, general public, Rolleston

Participants at Rolleston suggested that an opportunity for cost-effective communication exists through popular social media sites such as Facebook, with other preferred communication methods being mail drops and articles in local newspapers.

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> **Summary: information and communication**
> All focus group participants at all levels of political engagement agreed that communications with the community could be improved, and several options were proposed. Members of the general public suggested articles in local newspapers, leaflet drops, and social media sites like Facebook could be the most effective communication methods.

5.3. Legitimacy of outcomes

During the focus groups, several questions probed whether and to what extent participants felt that the outputs of collaboration were more or less legitimate than outputs of the CDDL model. Overall, views on this question were mixed, but analytic coding revealed some evidence of stratification based on level of political engagement. Generally speaking, general public participants unanimously felt that the outcomes lacked legitimacy, citing the fact that seven of ten Rolleston participants were unaware of the process. In contrast, views of the engaged participants (both workshoppers and submitters) were decidedly mixed.

In response to a question asking whether decisions from the Selwyn-Waihora zone committee were seen as legitimate, Sam stated that,

> "I don't want to be critical of the zone committee process because I think it's far better than anything that went before it by such a long margin that we don't even want to go back. But I think you've just got to accept that it's got further to go and we've got to learn as we go along. I don't think it's been terribly successful but I don't want that to be its downfall."
> —Sam, farmer, workshopper, Darfield

There was also some indication that people who participated in the zone committee workshops felt happier with the outcomes of the process. For example, Lisa stated that,

> "I think people are much more willing to live with what's produced if they've produced it and the Zone Committee does help with this definitely compared with what was there before. That's the big change in the last 20 years through CWMS and then the Zone Committee. People do feel as if they have been listened to generally."
> —Lisa, farmer, workshopper, Darfield

On the other hand, an opposing view came from another workshopper, who compared it to a CDDL process in another region:

> "Otago didn't have any commissioners coming in and setting up a whole lot of zone committees or anything like that to make a big collaborative process. Theirs was done with elected councillors and elected government and through a normal planning

process. I just don't know why we've gone away from doing what the normal planning process would have delivered."
—Henry, community group, workshopper, Dunsandel

5.4. Summary of results

Table 3 summarises the views and concerns expressed by focus group participants with different levels of political engagement, on each of the criteria discussed above. There is evidence for some stratification, *i.e.* differences in views or concerns by level of engagement, on issues of representation and transparency, as well as different views on the legitimacy of outputs, both between and within levels of engagement. Regarding participation, some views were expressed by participants at all engagement levels, while others were expressed only by the more engaged participants.

Table 3.   Summary of input legitimacy concerns, and assessment of output legitimacy, by focus group participants with different levels of political engagement. Stratification of concerns exist for representation, transparency, and participation.

	Engaged inner circle 'Workshoppers'	Engaged outer circle 'Submitters'	Unengaged outer circle 'General public'
Representation	Appointed zone committee members do not represent anyone; this is a loss of democracy. Some affected stakeholders were not included in the collaborative process.	The process did not select capable representatives for the workshops.	
Accountability	There is a lack of communication between zone committee participants and the community. Zone committee participants are instructed not to speak on behalf of a particular constituency and hence have no accountability.		
Transparency	Zone committee recommendations are altered when translated by ECan into planning documents. Appointed ECan commissioners are driving a government agenda through the zone committee process.		There is insufficient information about the zone committee process
Participation	Better-resourced, larger organisations can participate more effectively There are insufficient opportunities for the general public to participate.	Participation in the many zone committees and workshops throughout Canterbury is onerous for some groups. Zone committee participants are not paid enough, making it difficult for most people to commit the time required. Timeframes for submissions are too short.	
Information and communication	Communication with the wider community is lacking and could be improved		
Output Legitimacy	*Divided opinions about output legitimacy:* Zone committee process not perfect but big improvement. Affected people have been involved in producing the decisions. Unelected committee making decisions instead of elected councillors with normal planning process with submissions and appeals.		Decisions are not legitimate if people are not aware of the process.

6. DISCUSSION

6.1. Representation and related aspects of legitimacy

The aim of this research was to explore community perceptions of collaboration. We sought to answer the following question: how does an individual's or group's level of engagement with collaborative freshwater planning affect their perceptions of the legitimacy of the process?

It was our hypothesis that if a collaborative planning process is working well, making planning more democratic and avoiding capture by interest groups, we would expect to see positive comments on the process and outcomes from both inner circle and outer circle stakeholders. Conversely, if a collaborative planning process makes progress in decision-making by including interest groups and excluding the wider public, we would expect to see mostly positive comments from the engaged groups and mostly negative comments from the unengaged members of the community.

However, neither of these outcomes describes what we heard in the focus groups regarding the Selwyn-Waihora Zone Committee. The unengaged group was uniformly negative about the process as it currently stands, while the two engaged groups were divided largely along interest group lines. That is, environmental, recreational and community group members were all quite negative about the transparency, accountability and representativeness (*i.e.* legitimacy) of the process, while those from farming backgrounds were more likely to give a positive overall assessment even though they also raised concerns about shortcomings.

A fundamental feature of collaborative planning is an attempt to achieve consensus amongst the parties who are affected by the decision. This includes the ability of a group to walk away from a process that is not offering any improvement on what it could achieve through other means. Taking away appeal rights on regional plans to the Environment Court has limited these 'other means'. In Canterbury zone committees, some groups are unrepresented and some are not even aware of the process, so they are not given the choice of supporting a consensus or walking away. These unrepresented interests are more likely than others to object to the process and to oppose outcomes agreed within a zone committee. Hence, it can be expected that shortcomings of process (input legitimacy) will be used as a basis for some stakeholders to reject unfavourable outcomes (output legitimacy). The participants in our research groups found ample reasons for scepticism about the Selwyn-Waihora zone committee process and hence no shortage of grounds to challenge the legitimacy of the outcomes.

Many of the concerns expressed by focus group participants are related: representation, participation, accountability and transparency all relate to how well those making the decisions are mandated by and connected to other members of the

community who have a stake in the decisions. It was clear that all participants considered themselves to have a stake in the issue of water policy and management and the decisions arising from the governance process. Those who have been engaged in the Selwyn-Waihora zone committee process expressed specific concerns while the unengaged participants had more general concerns stemming from a lack of awareness of the process. The unengaged participants also had some specific concerns about the nature of representation in the process, as they understood it.

Many of the engaged participants (both workshoppers and submitters) were concerned that the zone committee process did not offer fair and equal opportunity for their individual or group participation in the freshwater planning process. We identified four reasons for this view: (1) community members appointed to the zone committee are not formally accountable to any group or the wider community; (2) commercial interests are much better resourced than environment, recreation, and community groups to attend the numerous zone committee meetings and workshops and make submissions in short timeframes; (3) there are perceptions that zone committee decisions can be managed or changed to suit a political agenda; and (4) rights of appeal have been diminished.

At the same time, many unengaged (general public) participants did not know the mechanisms available to participate in the zone committee process, nor how they are or could be represented in that process. They felt that they hold important insights on local freshwater management and were concerned about their perceived exclusion. Other New Zealand research suggests that 'the silent majority'—akin to our unengaged outer circle—seldom engages in planning processes despite having opinions (Stephenson & Lawson 2013). Our research adds to this by highlighting that suspicions of predetermined outcomes are fuelled when the general public is not aware of the process or how they could contribute if they wanted to.

Overall, these findings indicate that for all levels of engagement, the legitimacy of the process is under question. As such, they further suggest that perceptions of the legitimacy of the process are more influenced by input legitimacy factors (*i.e.* representation, transparency and accountability) than the level of engagement.

6.2. CDDL or collaborative planning?

Given the concerns expressed by all participants about representation, accountability and transparency, it is pertinent to ask whether the Selwyn-Waihora zone committee process (and the CWMS that has become a blueprint for national reforms) actually represents collaborative planning, or is it just a variant of the CDDL model? The zone committee process develops a regional plan through collaboration facilitated and assisted by the regional council, whereas in CDDL it would be done by council officers alone. However, the CWMS targets (Canterbury Water 2010), and the zone

committee Terms of Reference and Code of Conduct (Canterbury Water, n.d.) that mandate a particular kind of representation and behaviour, tightly confined 'collaboration' and outcomes to pre-determined formats. The zone committee does not represent in any formal sense the interests affected; zone committee decisions are only recommendations to the regional council, which translates them into proposed regional plan policies and rules; and anyone can make a submission and attend a hearing to seek changes.

From a review of reports for the Hurunui-Waiau and Selwyn-Waihora zones, it is clear that submissions to ECan hearings do result in changes to plan provisions. In other words, what is agreed by a zone committee can be altered during the public submission stage or by hearing commissioners. This is a key feature of the CWMS to avoid the possible tendency for 'zonal parochial perspectives to dominate decisions' (Canterbury Water 2010, p. 47).

Hence, Canterbury's approach to water management is neither collaboration nor CDDL, but rather a hybrid of the two (Duncan, in review). It uses collaborative methods but significantly constrains collaboration by limiting representation and accountability and prescribing collaborative behaviour. This is some distance from Habermas' conception of deliberative democracy that involves authentic deliberation and requires all affected interests to engage in good faith during face to face dialogue.

In light of concerns raised at each level of engagement in respect of transparency, accountability and representation, this research indicates that Canterbury's hybrid framework, while achieving regulatory outcomes, is contributing to diminished legitimacy within 'the community' beyond the zone committee. The broader community is not needed to get the rules through the process, but it is needed for policy implementation and ongoing political support for governments and regulatory agencies seeking to address, for example, water quality issues that have proven so difficult to manage over the past two decades.

6.3. Interest-based differences

Has the zone committee process in Selwyn-Waihora helped to solve the collective action problem, or made it worse? From perceptions of the general public participants in our focus groups, one could say it is worse—they perceive the process to be less open to them, based on a perceived lack of representation on and accountability of the zone committee. Some engaged members of community, environmental and recreation groups (workshoppers and submitters in this study) expressed similar sentiments, *i.e.* that the process was captured by farming and irrigation interests. However, farmers did not consider themselves directly represented in the process or in control of the outcomes, either, although they were more likely to express positive comments about the process than were others.

A possible explanation is that environmental, recreational and community group participants considered that the zone committee process was less likely than a CDDL process to produce an outcome to their liking or, conversely, that the farming interests considered a favourable outcome was more likely. Indeed, the comments about government agendas and predetermined outcomes suggest this may well be the case. The historical context here is also important—the CWMS, of which the Selwyn-Waihora Zone Committee process is a component, was initially established to secure more water storage for irrigation. The environmental objectives were added later, and it appears that some groups remain unconvinced that zone committees are abiding by the CWMS principles. These principles rank 'environment, customary use, community supplies and stock water' as first order priorities and 'irrigation, renewable electricity generation, recreation and amenity' as second order priorities (Canterbury Mayoral Forum, 2010, p. 8).

Of course, it is not just hidden agendas or biased process (*e.g.* unbalanced membership on the zone committee) that can cause a power shift to arise from changing the mode of consultation and decision-making. Collaborative processes have a different dynamic than CDDL, with more emphasis on deliberation and accommodation and arguably less emphasis on which side has the more compelling scientific evidence and legal arguments.

It can be expected that changes in how decisions are made will lead to changes in the decisions themselves, but in a truly collaborative process this should not cause groups to feel disadvantaged. In theory, in a collaborative planning process in which groups are actually represented and which uses a consensus decision rule, no group can be forced to accept an outcome that leaves it worse off. They would only accept an outcome if it offered an improvement. In that sense, every group that is party to, *i.e.* agrees to, a consensus outcome would be expected to see it in a positive light.

In Selwyn-Waihora, however, interest groups were not actually represented on the zone committee and hence had no veto or ability to walk away. This may help to explain why the environmentally-minded participants in our focus groups were so negative about the process.

Of course, it is not possible, from just three focus groups, to explain the different perceptions of farmers versus other engaged participants from environmental, recreational and community groups. We can only say that such differences were evident within our small sample, and that all of those we talked to saw significant shortcomings in the transparency, accountability and representativeness (*i.e.* legitimacy) of the process.

Small focus groups allow a rich picture of these issues and concerns to emerge; a longitudinal survey with a much larger sample size is underway in three other regions to assess community perceptions of collaborative planning processes more rigorously

and over time. It would also be useful to more directly target research to understand the perspectives of agricultural and other interest groups as well as those of iwi and other Māori interests.

Finally, it is important to note that a collaborative planning model or otherwise increasing democracy was not necessarily a primary aim of the CWMS but rather a means to an end. In the context of the central government takeover of ECan, the zone committee model has provided a mechanism for government-appointed commissioners to put a more democratic face on decisions. Importantly, the zone committee process has broken the political stalemate in Canterbury and decisions are being made. Selwyn-Waihora and Canterbury more generally, are among only a few areas in New Zealand where regulations are being put in place that specifically limit non-point source discharges of nutrients from farming properties.

We cannot say whether this progress is due to the zone committee process being more collaborative than the previous CDDL approach, or the fact there are now appointed commissioners who have been mandated by government to make the hard decisions and do not have to stand for re-election. In any case, the comments of some stakeholders in the Selwyn-Waihora zone suggest that many of them remain sceptical about the representativeness, transparency and accountability of the process and the democratic legitimacy of the outcomes.

This uneasy balancing act is still unfolding and as it does, we expect to see further evolution of perceptions of the legitimacy of the freshwater planning process by the various groups within the Canterbury community. With plans proceeding to enable more water storage and hence more land intensification, environmental groups fear nutrient limits are unachievable. Meanwhile, opposition has emerged from a group of farmers who were not engaged in the Selwyn-Waihora process who discovered, after the zone committee had made its recommendations and decisions had been finalised by ECan, that they would be adversely affected (Fulton 2014). Similar issues have arisen in the Hurunui-Waiau zone (Hurunui District Council & Environment Canterbury 2015, see for example the meeting minutes from 16 March 2015).

6.4. Limitations of this research

There are several major limitations of this research, and the findings must therefore be seen as preliminary and partial. We had a very small sample from each level of engagement and no Māori; assignment of a participant to a given level was in some cases debatable; and we studied the experience in only one of ten Canterbury zone committees and at a particular moment in time. The focus group discussions may have been dominated by more outspoken participants, skewing the results towards the opinions of those most vocal. We caution that the results are not necessarily representative of the Canterbury population.

There is a need for further study given the small sample size, the continued evolution of the Canterbury zone committee process, and the different socio-cultural and historical contexts within and between catchments and regions. 'Divergent geographies produce divergent community conceptions of environmental justice' (Hillman 2006, p. 296).

7. CONCLUSIONS

This study explored how the nature of representation in a collaborative planning process influences public perceptions of the legitimacy of decisions from that process. In particular, we asked how the level of engagement of an individual in or with collaborative freshwater planning affects their perceptions of legitimacy of that process.

In summary, our main conclusions about the Selwyn-Waihora zone committee process are as follows:

- There are members of the unengaged outer circle, *i.e.* the general public, who were unaware of the Selwyn-Waihora Zone Committee process and, when told about it, were sceptical about its legitimacy. They are not represented by interest groups and want to be informed about planning processes; they want an opportunity to provide input even if they choose not to exercise it.

- Stakeholders who are engaged in the process, *e.g.* through attending workshops or making submissions, had specific concerns about representation, transparency and accountability of zone committee members appointed by the council. For some, these concerns were given as reasons why the process lacked legitimacy.

- Members of a group do not necessarily feel represented in a process just because there is someone with the same occupation on the collaborative group, or even from their group, if there is no accountability back to the group being represented. This corroborates the findings of Nissen (2014) about what she called descriptive representation, but unlike Nissen we consider that councils should adhere to the recommendations of collaborative groups if they are actually representative. Doing otherwise fuels suspicion that the council has its own agenda and that the collaborative process was not constituted as genuine and authentic deliberation.

- There was greater support for the results of the zone committee process among those with farming interests than those with environmental, recreational and community interests, who were more sceptical about various aspects of the zone committee process. Members of these latter groups may have considered that the zone committee process was less likely than a CDDL process to produce an outcome to their liking. Without actual representation in the process they had no way to prevent the committee reaching consensus on an outcome they considered harmful to their interests.

A fundamental feature of collaborative planning is an attempt to achieve consensus amongst the parties who are affected by the decision. This includes the ability of a group to walk away from a process that is not offering any improvement on what it could achieve through other means. In Canterbury zone committees, because representation and accountability are missing, some interests are unrepresented and some are not even aware of the process, so they are not given the choice of supporting a consensus or walking away. These unrepresented interests are more

likely than others to object to the process and to oppose outcomes agreed within the committee.

While implementing a collaborative planning model was not necessarily a primary aim of the CWMS, the zone committee process has broken the political stalemate in Canterbury and decisions are being made. We cannot say whether this is due to the zone committee process being more collaborative than previous processes or due to other factors. In any case, it can be expected that shortcomings of process (input legitimacy) will be used as a basis for some stakeholders to object to unfavourable outcomes (output legitimacy). The participants in our research groups found ample reasons for scepticism about the Selwyn-Waihora zone committee process and hence no shortage of grounds to challenge the legitimacy of the outcomes.

Finally, we conclude that the legitimacy of collaborative planning processes and the resulting outcomes can be enhanced if the following practices are implemented:

- Information is widely available concerning who is participating, how and on what basis
- There are mechanisms through which the members of collaborative groups are accountable to those they represent and to the wider public
- The key policy decisions and reasons for them are visible to the general public, and are comprehensive, informative and accessible for lay people.

8. ACKNOWLEDGEMENTS

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10.　APPENDIX

Appendix 1.　Focus Group Questions and Prompts

Following is the script used during the three focus group meetings described in this report. It was used as a general guide rather than strictly followed. See Section 4 of this report.

1.　Who has heard of Selwyn-Waihora Zone Committee set up by the regional council, Environment Canterbury, in cooperation with Selwyn District Council and Christchurch City?

2.　Would someone like to tell us a bit about the Selwyn-Waihora Zone Committee and what it is doing?

　　a.　Anyone else? Does that correspond to your understanding?

3.　Can someone add why and how it was formed?

4.　Anyone have a different understanding, or anything to add?

If necessary, clarify how & why SWZC was established, how members were selected and the main tasks of the group – implement Canterbury Water Management Strategy.

5.　What do you know about what the committee has decided so far? [up to about 15 minutes]

Now drill into their perceptions on the merits of the process.

6.　How do you think your values and interests are being represented or heard through the Zone Committee process? [*Ask each person in the group, then allow general discussion.*]

7.　Who should be on such a committee and how should they be selected? Why?

　　a.　Representatives of identified interests?

　　b.　Representatives of 'the community'?

　　c.　What about elected councillors?

　　d.　Only people who are 'collaborative' and good at working with others?

8.　How should committee members be accountable to the wider community?

9.　Do you support the decisions that the XZC has made to date? Why or why not? [*Again, go around the group, then general discussion. Try to ascertain whether people are more concerned about input/process factors or outputs.*]

10.　How will you judge whether you think any recommendations from the zone committee should be supported by the community and endorsed by ECan?

11.　What other persons or groups will you look to in forming your opinions about whether you would support the zone committee's recommendations?

12.　Would you recommend the zone committee model to other regions in NZ? What could be improved? What might be different in other regions that could affect how well this model would work?

Pause and correct any misinformation or misunderstanding about ECan or the Zone Committee process that has been expressed, then ask Questions 5, 8 and 11 again, quickly checking for changes in views.