

**BEFORE THE**

Canterbury Regional  
Council

**IN THE MATTER OF**

the Environment Canterbury  
(Temporary Commissioners  
and Improved Water  
Management) Act 2010

**AND**

**IN THE MATTER OF**

Submission on Proposed  
Canterbury Land and Water  
Regional Plan (2012)

**Section 42A Report Volume 2 – Proposed Canterbury Land and Water Regional  
Plan**

**STATEMENT ON BEHALF OF:**

**COMBINED CANTERBURY PROVINCES, FEDERATED FARMERS OF NEW ZEALAND**

**Submitter Number 320**

## Introduction

1. My name is Michael Robert Bennett. I am a Regional Policy Advisor at Federated Farmers NZ (Inc). I hold a B.Sc degree from the University of Canterbury (Ecology) and a Masters of Commerce (Agriculture) from Lincoln University. Prior to my current role I worked for 3.5 years as a policy planner at Environment Southland where I worked on the environmental effects and good management of activities such as application of animal effluent and solid waste to land, silage pits, offal holes, stock holding areas and farm lanes, and intensive stock wintering systems.

### Scope of evidence

2. This statement covers the following activities:
  - offal pits;
  - animal and vegetative waste;
  - stockholding areas and animal effluent;
  - stock exclusion from waterbodies.
3. Pest control is addressed in a separate statement of evidence intended for presentation in cooperation with the Department of Conservation and the Animal Health Board.
4. Nutrient management is to be addressed by various statements of evidence prepared by the Primary Sector Water Partnership. Dr Lionel Hume will prepare information on behalf of Federated Farmers on this issue.
5. Federated Farmers are also interested in silage pits, fertiliser use, and farm rubbish pits, but we have little to add beyond what is already in the submission, or that can be supported by verbal statements of persons involved in day to day running of farm systems at the hearing. In view of the constraints of time, and in the interest of being constructive we see that there is little to be gained by going over the same material again as a statement of expert evidence. This does not mean that these parts take a lesser priority or are of less interest. We have made every attempt to suggest constructive amendments to the LWRP, and we hope that the hearing panel uses the time available to question us on these parts of our submission.

### Offal Pits – Rules 5.29 and 5.30

6. Please refer to our submission (at pages 38 – 41) on Rules 5.29 and 5.30 which includes substantial background information on the on-farm disposal of carcasses and offal, including:
  - the economically critical nature of the activity;
  - concerns about protections for groundwater that exclude hill country areas, and lack of alternative options for farmers in these areas;
  - the nature of the risk to end users of groundwater;
  - concerns about restriction to 1 site per annum regardless of the farm situation;
  - lack of viable alternative options to on-site burial;

- the need to protect dwellings and places of assembly on nearby properties from discharges to air, also involving proliferation of vermin, and visual and cultural effects;
  - the need for the crown to be able to respond quickly to the deaths of animals, particularly if there is a threat to public health or the spread of animal disease;
  - the need to provide for occupants of small landholdings;
  - reference to the requirements of the Health Act 1956.
7. The 42A report recommends accepting several of our submissions on Rule 5.23, which is appreciated. We are concerned however about the burial of carcasses and offal undertaken under the control of a crown agency and the recommendation for a 50 metre setback from any surface water body, bore used for water abstraction, and property boundary when fallen stock are disposed of as a one off.
8. Crown agencies require the ability to bury or otherwise dispose of fallen stock unhindered. Situations where a crown agency may have to dispose of fallen stock rapidly and/or in difficult circumstances include:
- following the deaths of large numbers of stock during an adverse event;
  - following traffic accidents involving stock trucks or other incidents involving the road network;
  - in responding to outbreaks of animal disease;
  - following strandings of marine animals where it may be necessary to bury decomposing material in the CMA;
  - stock drowned and washed down rivers during floods.
- In spite of the staff recommendation, Federated Farmers remains of the view that it is appropriate to include provision for burial of fallen stock with minimal restrictions if undertaken by or under the control of a crown agency.
9. The recommendation to provide for 'burial as a one off' is appreciated, but we are concerned that the setback distance has been recommended to be 50 m, rather than the 20 metres sought in our submission metres. This recommendation is contrary to the intent of our decision sought, which is to reduce undesirable surface disposal or inter property transfer of fallen stock by occupants of small rural landholdings. The rule for 'burial as a one-off' is taken from Environment Southland Plan Change 8 – Carcasses and Offal, which Federated Farmers was involved with. During the development of Plan Change 8 it became apparent that occupants of small landholdings, who often run small numbers of stock, would be unable to find a site on their property that complied with setbacks from property boundaries, bores, surface water and so on, in the permitted activity rule for offal holes. An anonymous survey was undertaken to investigate how fallen stock were disposed of on small landholdings found that the primary methods used were burial, or transfer to another property, both of which were, or were likely to be in breach of the relevant permitted activity rule (incineration was also commonly used). 'Alternative' methods such as composting or preservation in quicklime were uncommon, and in any case are undesirable because unless undertaken by a knowledgeable and diligent person, do little to address the pressing issues of visual effects, nuisance, infestations of vermin, and foul odour. In the interests of addressing this situation, the Council directed the development of a

rule to provide occupants of small rural landholdings a realistic option for legal and safe disposal of fallen stock.

Decision sought – Rules 5.29 and 5.30

10. Federated Farmers supports the staff recommendations for Rule 5.29, but seeks an exception for disposal carried out by crown agencies as sought in our submission.

11. Federated Farmers supports the staff recommendation to provide for burial of carcasses as a 'one off', but see that the 50 metre setback from various surface features defeats the purpose of the rule. We seek that 'Rule 29A' accords with that sought in our submission, specifically:

*(v) The burial site shall be at least 20 metres from any surface water body, water abstraction point, archaeological site, dwelling, building used as a work place on another landholding, place of assembly, or waahi taonga.*

**Animal and Vegetative Waste - Rules 5.33 and 5.34**

12. Federated Farmers supported Rule 5.33 and 5.34 in submissions because they are practical and accord with the low level of risk associated with this activity.<sup>1</sup>

13. In submissions we sought clarification of the meaning of solid, as used in the rule, taking our lead from the Envirolink report we suggested the following amendment:

*Solid Animal Waste: means solid waste of animal origin, including manure, but does not include dead animals or animal parts. Solid animal waste has a moisture content of 30% or less, and can normally be stacked in a pile or picked up on a shovel.*

14. In further submissions we also supported the submissions of Fonterra who were concerned that a discharge from an animal could be captured by Rule 5.33. We suggest that a reference to accumulated solid animal waste would be a simple way to resolve this concern.

Decisions sought – Rules 5.33 and 5.34

15. Improve the clarity of Rule 5.33 by:

- amending the definition of 'solid animal waste' as requested in our submission.
- amending Rule 5.33 as follows:

*The discharge of accumulated solid animal waste, or vegetative material...*

**Stock holding areas and animal effluent – Rules 5.35 and 5.36**

16. Please refer to our submission (at pages 38 – 41) on Rules 5.29 and 5.30 which includes substantial background information on stock holding areas and animal effluent, including:

- the technical complexity of stockholding areas and potential for prescriptive regulations to suppress innovation;
- the environmental benefits of stockholding areas in increased control of contaminants and reduced soil disturbance;

---

<sup>1</sup> Characterising Dairy Manures and Slurries. Envirolink Tools Report AGRX0901. Houlbrook et. al. October 2011 – Appended.

- concerns about the definition of ‘stock holding area’ including the ambiguity of the term ‘day’;
- the importance of appropriate design and location and recognition of surface preparations, design, or stock type that result in a reduced level of environmental risk;
- the protection of dwellings or places of assembly on nearby landholdings from discharges to air and nuisance or potential minor effects associated with stock holding areas, storage ponds, and effluent application areas;
- the technical complexity of effluent application systems and need to avoid prescriptive conditions that limit options or create unexpected outcomes.

*Use of land as a stockholding area*

17. Federated Farmers supports the staff recommendation to make the use of land as a stock holding area a permitted activity subject to conditions.
18. The staff recommendation is a good start, but the recommended rule is very prescriptive, and requires that stockholding areas are *sealed such that seepage into land does not exceed on millimetre per day*. We are concerned about this approach because it does not provide for roofed ‘manure pack’ wintering barns, deer wintering pads which, and other minor activities, which if properly located, designed and used, have most or all of the benefits of a sealed stock holding area with effluent capture.
19. Roofing a stock holding area diverts rainfall off the areas where animals are contained and contaminants will remain immobile as long as water does not enter the system some other way. A variety of overseas literature indicates that these types of wintering barns, as well as being of lower cost, are effective at managing discharges of contaminants without resort to collection of effluent or ‘sealing’<sup>2</sup>.
20. Deer wintering pads are very different to wintering barns of feed pads used to contain cattle because deer produce a much drier type of manure and, unlike cattle will not congregate in the feeding area and are able to roam over the loafing area. Usually an environmentally favourable elevated, free-draining site is selected because it is critical that the silage remains dry or deer will not eat it. The activity can be managed with a few basic conditions and should not default to a discretionary activity due to lack of flexibility in the permitted activity rule for ‘stock holding areas’. The following comments from our submission and are repeated here because they are particularly relevant:
- Stockholding areas do not always need to be sealed with concrete or roofed to create a sustainable outcome. In most circumstances for example, appropriately located and managed self-fed silage stacks create a better overall outcome for water quality, soil health, nutrient use/loss, and animal welfare, than grazing on forage brassicas. This is particularly if areas of elevated, hard rocky ground are used (these areas are often used as it is important that runoff water be kept out of the silage feeding area to maintain feed quality). The key advantage of self-fed silage stacks is the ability to precisely control location, and use that is often made of elevated areas of less productive ground well away from water, often on farms that lack areas environmentally or agronomically suitable for forage crops.*

---

<sup>2</sup> Bedded Pack Barns Alternative Feeding Operations for Beef and Dairy Cattle. United States Department of Agriculture. SD-FS-76. October 2011 - Appended

*Self-fed silage stacks work particularly well on deer farms because deer will avoid congregating in the feeding area and will roam over large areas – avoiding intensive discharges of nitrogen in the feeding area as well as many of the challenges that the same animals will create with soil erosion and riparian fencing on an intensive forage wintering system. Also, deer are very picky eaters and will not tolerate poorly made silage, or contamination by mud or water so a dry site and well prepared silage is particularly important.*

21. Stockholding areas can cause problems with odour and can have a very significant impact on the quality of life and wellbeing of occupants of nearby dwellings or places where people congregate and be a source of significant tension among those who live and work in rural areas. While no one should expect the same standards of amenity in a working rural environment as in an urban area, odours from wintering barns and standoff areas can be severe and Federated Farmers seeks that the issue is addressed now rather than once it actually is an issue and capital has been invested in large numbers of wintering barns and stand-off areas in an effort to achieve improved control of nutrient loss from farms. In other words we seek provision for effects of odour on dwellings and places of assembly because it is economically, socially and environmentally desirable to do so, including, as a minimum baseline level of protection, setbacks from dwellings and places of assembly present prior to the commencement of the use of land as a stockholding area.
22. Federated Farmers supports the staff recommended amendment to the definition of 'stock holding area' to clarify that only areas that are in use for more than 10 consecutive 24 hour days in succession. We are concerned however that the change is not reflected in the earlier part of the definition where it refers to '30 days in any 12 month period'. This is likely to capture areas such as sheep or cattle yards, which we do not believe are intended to be captured by the rule.

#### Decision sought – use of land as a stockholding area

23. Federated Farmers supports the recommendation of staff to unbundle Rule 5.35 and put in place a permitted activity rule for stock holding areas.
24. Federated Farmers supports the recommendation of staff to amend the definition of **stock holding area** to only refer to areas used for confining livestock for more than 10 consecutive 24 hour days. We seek that entire definition is further amended to be consistent and also refers to '30 24 hour days in any 12 month period...'
25. Recommended Rule 5.35 lacks provision for the effects of odour on nearby properties. Accordingly we seek the inclusion of advice notes referring to other plans or the requirements of the Health Act (1956). It would also be appropriate to consider setbacks to provide a minimum baseline level of protection for occupants of nearby dwellings and places of assembly in the permitted activity rule, recognising that such measures are not supported by objectives and policies in the plan.
26. We are also concerned that the recommended Rule 5.35 is prescriptive rather than outcome focussed and prefer a wording that allows for a greater variety of systems as a permitted activity. Systems that are roofed to exclude rainwater, or uncovered and

unsealed deer wintering pads should also be provided for due to their low cost and net environmental benefit compared to other options. We seek the following further changes to the staff recommended rule (changes in **bold**):

5.35 The use of land for a stock holding area is a permitted activity, provided the following conditions are met:

1. The stock holding area is not within:

(a) 20 m of a surface water body, a bore used for water abstraction or the Coastal Marine Area;

(b) a group or community drinking water supply protection area as set out in Schedule 1; and

**(c) 100 metres of a pre-existing dwelling or place of assembly on another property.**

2. ~~All~~ Any liquid animal effluent, washdown water or stormwater containing animal effluent is collected and disposed of to an animal effluent collection and storage system authorised under Rules 5.35B to 5.36B;

3. ~~The base of a~~ Any stock holding area located on land over an unconfined or semi-confined aquifer shall be ~~sealed~~ **designed, prepared and used** such that seepage into land does not exceed one millimetre per day, **or if a wintering pad for deer, in accordance with the recommendations of a farm environment plan for the property.**

4. **All solid manure is disposed of in accordance with Rules 5.33 and 5.34.**

27. The 'unbundled' Rule 5.35 recommended by staff defaults to a discretionary activity as Rule 5.35A. Discretionary activity status for stock holding areas that are unable to comply with the prescriptive provisions of staff recommended Rule 5.35 is inappropriate given that appropriately located and designed stock holding areas will create environmental benefits, and will often be substantially better than alternative options such as wintering on a forage crop. Federated Farmers therefore seeks that any permitted activity rule for 'stock holding' areas defaults to a controlled activity status, with matters of control relating to:

- the appropriateness of location, preparation, and design, allowing for slope of land and soil behaviour under drainage;
- stock type.
- duration and intensity of use.
- the recommendations of any farm environmental plan undertaken for the property.

#### *Storage of effluent*

28. Federated Farmers supports the staff recommendation to unbundle Rule 5.35 and put in place a permitted activity rule for effluent storage.

29. Federated Farmers support the submissions, evidence and decisions sought of Fonterra on storage of effluent. We also agree with Fonterra that a limit on the quantity of effluent stored is unhelpful and may lead to distortions as farmers build less storage than they really need to achieve good management practice at acceptable levels of reliability.

30. As with wintering barns and standoff areas, effluent storage ponds can cause problems with odour if located too close to dwellings or places of assembly on other

properties. In Southland, large effluent storage ponds have been required of all new or renewed resource consents to discharge farm dairy effluent for the last several years and odour associated with effluent storage ponds is a source of complaints and community tension, and a source of significant liability for owners of these structures.

#### Decisions sought – storage of effluent

31. Federated Farmers support the decisions sought by Fonterra in their submissions and statement of evidence regarding storage of effluent.
32. Federated Farmers also seeks the inclusion of advice notes referring to other plans or the requirements of the Health Act (1956). We also seek that the hearing panel considers setbacks from dwellings and places of assembly on other properties that existed prior to the construction of any effluent storage facility in staff recommended rule 5.35B, but only as a minimum baseline level of protection and recognising that such measures are not supported by policy.

#### *Application of effluent to land*

33. Federated Farmers supports the staff recommendation to unbundle Rule 5.35 and put in place a permitted activity rule for effluent storage.
34. Federated Farmers also supports the submissions, evidence and decisions sought of Fonterra regarding the application of effluent to land, in particular we seek a regulatory framework that reflects variations in soil behaviour under drainage, as per the management recommendations of the AgResearch report discussed in the evidence of Fonterra. The risks to water quality of applying effluent to land, and system adaptations necessary to adapt to this risk varies markedly with climate, soil properties and slope in the application area.
35. Federated Farmers also raises similar concerns for impact of odour on pre-existing dwellings or places of assembly on other properties as for the use of land as a stock holding area or effluent storage facility.
36. Federated Farmers sees that the application of effluent to land should be provided for as a permitted activity where risks to water quality are not significant, and in particular when the overall quantity of material involved is minor, for example as might arise from washing farm vehicles, or emptying of stock truck effluent holding tanks. Without such provision, these very minor activities will require a resource consent, which is inappropriate in the working rural environment.

#### Decisions sought

37. Federated Farmers support the decisions sought by Fonterra in their submissions and statement of evidence regarding application of effluent to land.
38. Federated Farmers also seeks the inclusion of odour as a discretion matter, for example:  
*Measures necessary to protect occupants of nearby dwellings or places of assembly from odour.*



39. Federated Farmers also seeks the inclusion of a permitted activity rule for application of effluent to land in circumstances where risks to water quality are not significant, for example when small quantities of effluent are involved.

**Stock exclusion from water bodies – Policy 2.26 and Rules 5.133 to 5.137**

40. Please refer to our submission (at pages 62-64) on Rules 5.133 to 5.137 which includes substantial background information on stock exclusion from waterbodies, including:

- acknowledging the benefits of stock exclusion from surface water;
- practical barriers to full stock exclusion on more extensive hill and high country farms;
- open terms such as ‘bed of lake or river’ or ‘wetland’ used as the basis for strict or uncompromising standards;
- the lack of provision in Rule 5.136 for stock crossing rivers during mustering in the hill and high country environment where rivers are often more than 20 metres wide and the activity will often vary in location from season to season.

*Statement of Federated Farmers – Hearing Group 1*

41. Much of our hearing statement for Hearing Group 1 is particularly relevant to our submissions on Rules 5.133 to 5.137.

42. At paragraph 10 we discussed the challenges faced by hill and high country farmers, including:

- topographical and climatic conditions limit intensity of land use, and options for further intensification or change of land use.
- a physically complex landscape intersected by seeps, springs, small watercourses and so on make it potentially very expensive to exclude stock from water bodies.
- hill and high country farms are economically vulnerable. Farms are of low profitability<sup>3</sup>, subject to rising input costs<sup>4</sup>, the vagaries of markets<sup>5</sup> and droughts or other weather events<sup>6</sup>.

43. At paragraphs 20 – 29 we identified that the term ‘wetland’ is broadly interpretable and can be quite onerous, if combined with controls on land use. These problems and discussions that took place on a better alternative approach at the hearing are very relevant to our submissions on Rules 5.133 to 5.137.

*The appropriateness of prohibited activity status*

44. Federated Farmers are concerned about proposed Rules 5.133 and 5.134 because the section 32 analysis has been insufficient to demonstrate that a prohibited activity

---

<sup>3</sup> Ministry for Primary Industries, Farm Monitoring 2012. National Sheep and Beef.

<sup>4</sup> Beef and Lamb New Zealand Economic Service – Sheep and Beef Farm Input Prices 2011-2012. Paper number p12020. 5 June 2012.

<sup>5</sup> Beef and Lamb New Zealand Economic Service – New Zealand Lamb Prices \$per head.

<sup>6</sup> Dryland Farming, a Marlborough Family’s Journey. Adapting to climate change: Case Study 1. MAF Policy November 2010.

rule is the best option for the matters in question, nor has sufficient explanation been provided as part of the section 32 material<sup>7</sup>.

45. Federated Farmers made the following submissions:
- Amend Rule 5.133 to narrow the very broad criteria of 'bed of a lake or river or wetland';
  - Amend Rules 5.133 and 5.134 to apply the more reasonable 'non-complying' activity status;
46. At pages 62 and 63 of our submission we have mistakenly referred to Rule 1.33 and Rule 1.34, rather than 5.133 and 5.134. We apologise for this error and ask that submissions on Rules 1.33 and 5.34 made on these pages be considered as submissions on Rule 5.133 and Rule 5.134 instead.
47. Federated Farmers appreciates the staff recommended changes to Rules 5.133 to 5.137 because these make the overall set of rules more practical and easier to use. We remain concerned however about the use of prohibited activity status, particularly in combination with the un-precise term 'wetland' within Rule 5.134
48. Prohibited activity status, and the policies that support them should not be used lightly, or without sufficient thought and analysis of the consequences. With Rules 5.133 and 5.134 Federated Farmers is concerned that:
- The section 32 report does not satisfy the criteria established in *Thacker v Christchurch City Council* that the decision that prohibited activity status is the most appropriate of available options, which must be demonstrated *in detail* in the comparative evaluation under section 32<sup>8</sup>. Federated Farmers is not satisfied that the section 32 report presented at the time of notification<sup>9</sup> demonstrates that the activities in question are inappropriate in every circumstance, particularly in the physically and environmentally complex hill and high country environment where it is difficult to be sure that the activities in question will always be inappropriate, unnecessary, or have an unacceptable environmental impact;
  - Rules 1.33 and 1.34 and Policy 4.26 upon which they rest are out of scope with the Objectives of the plan. Nowhere do the Objectives of the Plan mention absolute protection, prohibition of stock access to certain areas, regardless of mitigating circumstances.
  - The terms 'intensively farmed livestock' and 'wetland' are not well defined enough to act as qualifiers for a prohibited activity rule which will be directly enforced by Council officers, independent of a resource consent. Interpretation must be simple and easy, and landowners must be certain on reading the plan that they comply;

Given the problems with prohibited activity status, the Federation sees that non-complying activity status would be more appropriate. Non-complying activity status is still a very protective activity status that will, with appropriate support from policies only

---

<sup>7</sup> *Thacker v Christchurch CCC C026/09*

<sup>8</sup> Section 42A Report Volume 1 – Proposed Canterbury Land and Water Regional Plan. Page 35

<sup>9</sup> Proposed Canterbury Land and Water Regional Plan – Section 32 Summary. Pages 68 – 70.

allow the activity in special circumstances with a general expectation that a resource consent will not be granted.

Decision sought – Rules 5.133 – 5.137

49. Federated Farmers seeks that Rule 5.133, 5.134, 5.135, 5.136 are amended in accordance with staff recommendations because they are more workable than the notified rules. We seek that either 'intensive stock' referred to in the staff recommendations or the definition 'outdoor intensive farming' are amended to be mutually consistent.
50. Federated Farmers seeks that Rule 5.134 is amended to non-complying activity status.
51. As supported by our submissions and further submissions, Federated Farmers seeks that Environment Canterbury refines aspects of the framework pertaining to wetlands to be more workable, including by:
- Refining the definition of 'wetland' to better clarify what is or is not significant;
  - Amend Rules 5.134, 5.135, 5.136, 5.142, 5.148, 5.150, and 5.152 so as to only apply to strict protections to wetlands that have been found to be ecologically significant, leaving mapping and assessment to be undertaken subsequently;