

abled at Hearing 20/05/2013

IN THE MATTER

of the Resource
Management Act 1991
(RMA)

AND

IN THE MATTER

of the Environment
Canterbury: Proposed
Canterbury Land &
Water Regional Plan
(PCLWRP)

TO BE HEARD BY

Canterbury Regional
Council

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Hansen on Behalf of the Hurunui Water Project (HWP)**

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Introduction

1. I have outlined my qualifications and experience in my earlier evidence dated 2 April 2013.
2. My approach today is to provide you with a summary of the key planning matters raised by HWP addressed in my original evidence I prepared for Hearing Group 1 dated 4 February 2013 and Hearing Group 2 evidence dated 2 April 2013.
3. I have read the Code of Conduct contained in the Environment Court's Practice Notes for Expert Witnesses and agree to comply with it.

Hearing Group 1 Evidence

4. There are two key matters of concern to HWP:

The Relationship of the Proposed Hurunui Waiau River Regional Plan (PHWRRP) and the Proposed Canterbury Land & Water Regional Plan (PCLWRP)

5. In its submission the HWP sought clarification regarding whether the rules of the PHWRRP prevail over the PCLWRP rules where the subject matter is not well defined. The Decisions on the PHWRRP have been released, and the HWP has appealed a number of matters on a point of law.
6. Notwithstanding this, the Officer Report recognises "*The detail of relationships with other plans will continue to be subject to some interpretation, particularly where there are partial overlaps in rule frameworks or rules triggered by different criteria.*" In my view, the critical issue is defining the "*subject matter*". I provide a number of examples in Paragraph 24 of my original evidence relating to the HWP's Waitohi Project. I also highlight in paragraph 25 that the boundaries of the different plans do not align. For example, the physical area covered by the PHWRRP does not align with the Hurunui sub-region included in the PCLWRP. This means part of the Hurunui sub-region is not covered at by the PHWRRP rules but by the PCLWRP which seems illogical to me.
7. The HWP raised the above issue in relation to the following policies and rules, and sought clarification of the relationship between the PHWRRP and the PCLWRP:

- Policy 4.52 relating to discharge of water resulting from moving water from one catchment or water body – Policy 6.6 of the PHWRRP deals with the transfer of water from one catchment to another, but Policy 4.52 also relates to the discharge of that water meaning the ‘*subject matter*’ may not be that clear;
 - Policy 5.43 relating to whether water transferred from outside the catchment is available for abstraction by the resource user who transferred the water – similar to above the ‘*subject matter*’ is difficult to define;
 - Policies 4.66 – 4.70 relating to water efficiency and in particular Policy 4.68 implies that water allocated to a consent holder not using the allocation will not be allocated to someone else who may be able to use that allocation efficiently – clarity on this matter is important to HWP as it relates to the Waipara and Kowhai Catchments which are part of the HWP’s Waitohi Project.
8. HWP’s raised concerns regarding the definition of ‘*catchment*’ that have not been addressed in the Officer Report. I note the Oxford Dictionary defines ‘*catchment*’ as “*the action of collecting water, especially the collection of rainfall over a natural drainage area.*” I would suggest a definition of ‘*catchment*’ that clearly recognises the physical nature of water catchment areas is better suited than one that reflects administrative boundaries. A suggested wording would be: “*The physical boundaries of a natural drainage area where rainfall collects*” or similar.

Hearing Group 2 Evidence

Officer Report Recommendations

9. I note the Officer Report has recommended substantive changes to the farming provisions of the PCLWRP. I am aware these are only recommendations, and for completeness I have prepared my original Hearing Group 2 evidence in two parts to address the possibility that the Commissioners do not adopt the Officer Report recommendations.
10. Overall I support the approach recommended in the Officer Report, and in particular the need to take a step back to review the directions the proposed

Plan has taken to date, and accept the need to review these directions. As I outline in my original evidence, this support is subject to a number of ‘minor’ matters being addressed (I highlight these below).

Recommended Provisions Relating to Land Use Activities in the ‘Red’ Nutrient Zone – Waipara Catchment – and how it affects HWP’s Waitohi Project

11. The following are the key matters of interest to HWP in relation to the new provisions recommended in the s.42A Officer Report relating to the ‘Red’ Zone:

- In Paragraphs 33 – 35 of my original evidence I support a recommended move to allow further development in the ‘Red’ zone based on the adoption of advance mitigation measures so that nutrient discharges are minimised, until the sub-regional sections are completed – this support is subject to the concerns raised by HWP regarding the determination of the ‘Red’ Zone, and whether the Waipara Catchment should be included in that Zone. My understanding is that there although the periphyton criteria is not met this is due to natural contributions to waterways. I rely on the evidence of Ms Hayward on behalf of Dairy NZ in relation to this. I consider the Waipara Catchment should be zoned ‘Orange’ as the failure to meet water quality outcomes is not caused by land use. HWP propose to augment the Waipara River to provide irrigation to land in the Waipara area – this will trigger a land use change but can be managed so the quality of the Waipara catchment does not deteriorate.
- In Paragraphs 68 – 70 of my original evidence I support the recommended new Policy 4.23 that allows for a changed or new farming activity in the ‘Red’ zone and Lake Zones subject to no net increase in nutrient discharges or advanced mitigation farming practices adopted ;
- In Paragraphs 71 – 74 of my original evidence I support new Policy 4.33 where priority given to a collaborative catchment management approach where regional water quality outcomes not being met in ‘Red’ zone, with a minor amendment;

- In Paragraphs 100 – 103 of my original evidence I support permitted activity rule 5.39 for the use of land, changed farming activity or a new farming activity if meet conditions;
- In Paragraphs 108 – 111 of my original evidence I support permitted activity Rule 5.41 for existing farming activities in the 'Red' zone subject to conditions;
- In Paragraphs 128 – 131 of my original evidence I support discretionary activity status for a changed farming activity or a new farming activity in the 'Red' zone subject to a minor amendment.

Schedule 8

12. In Paragraphs 47 – 50 I support the mix of regulatory and non-regulatory mechanisms and a date (1 July 2017) for Schedule 8 and a rule regime to implement the Schedule 8 limits – HWP also sought a timeframe for sub-regional solutions.

Notified Plan Provisions

Proposed Provisions Relating to Land Use Activities in the 'Red' Nutrient Zone – Waipara Catchment – and how it affects HWP's Waitohi Project

13. I am mindful that the Commissioners may not adopt the Officer Report recommendations above, and the following are the key matters of interest to HWP in relation to the provisions included in the Notified Plan relating to the 'Red' Zone:
 - In Paragraphs 167 – 175 of my original evidence I challenge the process to prepare the Nutrient Zones, and in particular the 'Red' classification on the Waipara Catchment;
 - In Paragraphs 217 – 222 of my original evidence I challenge Policy 4.76 (as included in notified Plan) in the context of HWP's concerns with the 'Red' zones – this policy is not addressed in the Officer Report;
 - In Paragraphs 223 – 229 of my original evidence I questioned how Rule 5.39 relates to the PHWRRP as it did not address any farming activities prior to 2017 – I note the PHWRRP as amended by Decisions

now does address farming activities prior to 2017; I also challenged Rule 5.39 as it related to the 'Red' zone as it applies to the Waipara Catchment, and this issue would be outstanding if the Commissioners did not accept the new rules recommended in the Officer Report;

- In Paragraphs 250 – 257 of my original evidence I challenged Rule 5.46 and the 20 kg/N/ha/yr figure as it might apply to the 'Red' zone and the Waipara Catchment - this issue would be outstanding if the Commissioners did not accept the new rules recommended in the Officer Report;

Schedule 8

14. In Paragraphs 258 – 263 of my original evidence I raise a similar issue as above (paragraph 12 where I seek a timeframe for sub-regional solutions) but in Rule 5.49 it also relates to when there is no rate for the relevant farming activity specified in Schedule 8 and whether the property is within the 'Red' zone. Should the Commissioners not accept the Officer Report recommendation, the concerns expressed are unresolved.

Advanced Mitigations

15. Paragraph 339 – 342 – we questioned some of the aspects of 'advanced mitigation measures' that relates to the rules. In my original evidence I highlight the 3 Tier Approach taken in the Horizons One Plan, and suggest a similar approach.

Definitions of 'change'

16. While overall I supported the new definition of 'Change in farming activities' recommended in the Officer Report, I expressed a number of concerns that needed addressing. I am also aware there is still considerable discussion regarding what the definition of 'Change in farming activities' should be. I understand the Commissioners have sought an alternative from technical experts representing the various farming sectors who have presented evidence at these hearings. I am also aware that the Hawkes Bay PC 6 establishes a policy benchmarking approach with change being an increase by more than

10% above that benchmark or by more than 5kg N/ha/yr. Overall I am hopeful that the iterative approach being taken and the consideration of alternatives being developed by other Councils will lead to a definition that is pragmatic and workable.

Chris Hansen

20 May 2013