

IN THE MATTER

of the Resource
Management Act 1991
(RMA)

AND

IN THE MATTER

of the Proposed
Variation 2 to the
Canterbury Land and
Water Regional Plan

TO BE HEARD BY

Canterbury Regional
Council

**Statement of Evidence of Gregory Philip Sneath
on Behalf of the Fertiliser Association of New Zealand**

15 May 2015

Qualifications and Experience

1. My full name is Gregory Philip Sneath. I graduated from University of Queensland, St. Lucia, Brisbane, Australia, with a Bachelor of Agricultural Science, with Honours.
2. I am currently employed as Executive Manager with The Fertiliser Association of New Zealand. I have been with The Fertiliser Association of New Zealand for over 10 years, and have certificates of completion for both the Intermediate and Advanced courses in Sustainable Nutrient Management in New Zealand Agriculture, at Massey University.
3. Representing the Fertiliser Industry I have engaged with Regional Council staff throughout New Zealand involved in the disciplines of policy, land management and science. I have participated in stakeholder workshops, advisory groups and industry consultations in relation to nutrient management and the development of Regional Plans, including engagement within the pan sector industry groups addressing the Proposed Canterbury Land and Water Regional Plan, Tukituki Proposal, Otago Regional Council Plan Change 6A, Southland Regional Council Land and Water Group, Greater Wellington Regional Plan Stakeholder groups, Horizons One Plan development and others.

Introduction

4. The Fertiliser Association of New Zealand (**'FANZ'** or 'the Association'), is a trade organisation representing the New Zealand manufacturers of superphosphate fertiliser. The Association has two 'member companies' – Ballance Agri-Nutrients Ltd and Ravensdown Fertiliser Co-operative Ltd. Both these companies are farmer co-operatives with some 45,000 farmer shareholders. Between them these companies supply over 98% of all fertiliser used in New Zealand.
5. The member companies have invested significantly in systems and capability to reliably estimate and document nutrient cycling on farms, with the purpose of providing sound advice and recommendations for nutrient management to support viable economic production and environmental responsibility. The systems and procedures used are applied in the same way nationally, but recommendations are specific to farmer goals, industry targets and regional council regulation. National and in particular regional consistency in the approach and framework for nutrient management is highly desirable.
6. The Fertiliser Association takes a particular interest in regional policy statements and regional plans in terms of supporting provisions that enable the sustainable management of natural and physical resources, and seeking that any regulation of land use activities that may use fertilisers is appropriate and necessary.
7. A summary of submission points discussed here are as follows:

Key Matters

- Amend Rules 13.5.12 and 13.5.20 from 'prohibited' to 'discretionary' activity
- Accept Officer report recommendation for amendments to Schedule 24a (a)+
- Amend Policy 13.4.13 to remove industry sector specific provision (dairy industry), remove the requirement for specific percentage reductions and delete the nitrogen loss reduction requirement from 2035, if the target load is to be achieved by 2035.
- Amend Rule 13.5.14 to insert the words, "which increases its nitrogen loss calculation above the nitrogen baseline" to more clearly provide for the intent of the rule. Amend the rule to restricted discretionary activity status.
- Support deletion of the definition for "Good Management Practice Nitrogen Loss Rates"

Additional Matters

- Accept the Officer report recommendation to amendment to the Section 13 Introduction to acknowledge the economic and social significance of agricultural production to the region.
- Amend Policy 13.4.9 (c) to Preventing overall increases in nitrogen losses in the Upper Hinds/ Hekeao Plains Area: (due to the absolute nature of preventing 'any' increase being unnecessary provided water quality values are met)
- Amend the activity status for rule 13.5.11 from non-complying to restricted discretionary.
- Accept the Offer report recommendations for Rule 13.5.10 and Rule 13.5.18, with further amendment to restricted discretionary activity
- Amendment of the activity status for Rule 13.5.19 to discretionary activity
- Amend Rule 13.5.23 to delete 'prohibited' and insert 'discretionary'
- Amend Rule 13.5.25 to 'restricted discretionary' activity
- Provision for review of the catchment load in Table 13 (g), by expert panel with representatives from all stakeholders
- Accept the Officer report recommendation to delete Table 13 (h). However, the introduction of percentage reductions for nitrogen loss rates for dairy and dairy support activities into Policy 13.4.13 is opposed for the reasons given under submission points on Policy 13.4.13
- Accept the Officer report recommendation to delete reference to Table 13 (h), within Table 13(i). However, the introduction of percentage reductions for

nitrogen loss rates for dairy and dairy support activities into Policy 13.4.13 is opposed for the reasons given under submission points on Policy 13.4.13

- Provide for expert review of Tables 13(j) and 13(k) engaging all stakeholders.
- Retain the title heading “Limits/Targets for ...” in Tables 13(j) and 13(k).

Main Hearing Submission

Rules 13.5.12 and 13.5.20

Original Submission:

8. FANZ emphasised as a key submission point, a significant injustice where the in both the proposed Rules 13.5.12 and 13.5.20 farms which have in good faith, undertaken development during the baseline period will not be able to comply with the average nutrient discharge calculated using the baseline year data, and will be prohibited as a result.
9. Prohibited status is not warranted to control nutrient discharge of these farming activities, which can be controlled under discretionary activity, taking into account the farm practices implemented to avoid, remedy or mitigate nutrient losses.
10. FANZ sought; to amend the prohibited activity status under Rules 13.5.12 and 13.5.20, to non-complying or in the alternative discretionary.

Officer report response:

11. The Officer Report recognised that a number of submissions challenge specific provisions within the rule framework and for both 13.5.12 and 13.5.20, asserted the issues were addressed through both the LWRP hearings and the Variation 1 hearings and did not see any compelling reasons raised in the submissions to depart from the existing situation.
12. The Officer report states that non-complying activity status is provided for where the Schedule 24a activities or a farm environment plan is not in place, and prohibited activity status for exceeding the nutrient baseline. This is similar to the ‘red zone’ approach under the LWRP. [paragraphs 9.250 and 9.251]
13. The Officer report considered a number of these rules together.
14. The Offer’s report recommends retaining Rules 13.5.8, 13.5.9, 13.5.11 and 13.5.12 [Para 9.252] and also retaining Rules 13.5.13, 13.5.15, 13.5.16, 13.5.19 and 13.5.20. [Para 9.336]

Comment:

15. The Officer report does not specifically address the issue raised by FANZ. The practicalities of the Rule remain where properties which have undergone development during the benchmark period will have a long term annual average discharge which is below the existing long term annual average discharge, due to the developments undertaken during the benchmark period. It remains unjust and inequitable that the farm activity should be prohibited on this basis.
16. It is not clear from the Officer's report at which stage in earlier proceedings this specific matter was addressed.
17. Amending the activity status for Rules 13.5.12 and 13.5.20 to Discretionary Activity provides flexibility to manage the discharges with due consideration to the catchment outcomes while providing for fair and justice application of the nutrient discharge allowances.

Relief Sought:

18. Amend Rules 13.5.12 and 13.5.20 from 'Prohibited' to "Discretionary Activity"

Schedule 24a requirements

Original Submission:

19. FANZ noted that Schedule 24a requires nutrient budgets to be reviewed annually and submitted that, Overseer Nutrient Budgets represent a long term annual average nutrient loss and therefore should not be expected to represent farm management responses to 'within year' variations.
20. FANZ sought, also as a key submission point, that nutrient budgets be valid for 3 years, unless there is a significant farm system change

Officer report response:

21. The Officer Report acknowledges the submission points [paragraph 9.403], and it is acknowledged that; *"the nutrient losses from a property may not change greatly under long run conditions without substantive changes in farming practice"*. [Paragraph 9.413].
22. Amendment to the wording within Schedule 24a (a) (i) is recommended as follows:

"Schedule 24a- Farm Practices

(a) *Nutrient Management:*

- (i) *A nutrient budget based on soil nutrient tests has been prepared, using OVERSEER in accordance with ~~the latest version of the~~¹⁷⁴ OVERSEER Best Practice Data Input Standards ~~[2013]~~¹⁷⁵, or an equivalent model approved by*

*the Chief Executive of Canterbury Regional Council ~~and is reviewed~~
annually¹⁷⁶*

(ia) Where a material change in the land use associated with the farming activity occurs (being a change exceeding that resulting from normal crop rotations or variations in climatic or market conditions) the nutrient budget shall be prepared at the end of the year in which the change occurs, and also three years after the change occurs;

(ib) Where a material change in the land use associated with the farming activity does not occur, the nutrient budget shall be prepared once every three years;

(ic) An annual review of the input data used to prepare the nutrient budget shall be carried out by or on behalf of the landowner for the purposes of ensuring the nutrient budget accurately reflects the farming system. A record of the review shall be kept by the landowner.¹⁷⁷

(ii) Fertiliser is applied in accordance with the Code of Practice for Nutrient Management [2007].

(iii) Records of soil nutrient tests, nutrient budgets and fertiliser applications are kept and provided to the Canterbury Regional Council upon request."

Relief Sought:

23. Accept the Officer Report recommendation for amendment to Schedule 24a (a) as shown above.

Section 13 Introduction

Original submission

24. FANZ sought new wording within the introduction to Section 13 to acknowledge that this catchment and plains area is a significant agriculturally productive area important for the economic and social well-being of the region and country, as follows:

The Heketere /Ashburton Catchment and Hinds/Hekeao Plains Area is an important area for agriculture and food production which provides significant employment in the area, both on-farm and in processing and service industries. The social and economic wellbeing of the community is reliant on the agricultural industry and it is important that it is retained so that the communities can thrive.

Officer report response

25. The Officer report acknowledged the submission point [paragraph 7.18] and a similar submission by others is also acknowledged [paragraph 7.17].

26. The Officer report [Paragraph 7.23] recommends a number of changes for the introduction to Section 13, including a new paragraph as follows:

*The Hinds/Hekeao Plains Area was historically, and is currently, an important area for food production. It currently provides significant employment in the area, both on-farm and in processing and service industries. The social and economic wellbeing of the community is reliant on the agricultural industry and it is important that it is retained so that the communities can thrive.*¹²⁶

Comment

27. The Officer report has largely accepted the submission point in relation to acknowledging the importance of the catchment area for agricultural production and social and economic wellbeing.

Relief Sought

28. Accept the Officer Report recommendation to insert the wording above.

Definition of Good Management Practice Nitrogen Loss Rate

Original submission

29. FANZ sought amendment to the definition of Good Management Practice Nitrogen Loss Rate to include the means by which it is determined.

Officer report response

30. The Officer report [Paragraph 9.112] acknowledges a wide range of varied submissions on this definition seeking deletion or amendment. The report concludes [paragraph 9.115];

“definition of good management practice nitrogen and phosphorus loss rates is simply stating the concept, and good management practice is more complex than is able to be define through the submissions at this point. Further, I do not consider it appropriate to insert it as a definition or a statement for the Hinds/Hekeao Plains Area merely outlining a process to be followed for completing the definition in the future, particularly in considering its region-wide application”.

31. Deletion of the definition for ‘Good Management Nitrogen and Phosphorus Loss Rates’ is recommended in the Officer report and it is recommended that ‘Good Management Practice’ is not defined in the Plan. [Paragraph 9.116].

Comment

32. Good Management Practice Nitrogen and Phosphorus Loss Rates features prominently, with significant consequences, within the proposed plan.
33. It is not explicitly stated but it is assumed that consequential changes to the proposed Variation 2 will require N loss values will simply be based on the existing

definition for “nitrogen loss calculation” within the Canterbury Land and Water Regional Plan.

34. FANZ favours regional and if possible, national consistency for management of nutrients losses from farming systems. To this end, remaining with existing definitions as presented in the Land and Water Plan is considered a positive step.

35. The Officer report recommends amendment to Rule 13.4.13 [paragraph 9.97] which currently requires “meeting good management practice loss rates.” The replacement phrase will require:

“discharge no more nitrogen than the loss rate that could reasonably be expected from the implementation of good management practices.”

36. However, the recommended Variation does not specify how this expected loss rate should be ascertained or estimated and it is presumed it will be defined by the Matrix of Good Management Practice, yet to be introduced by Plan Change.

37. It is noted that the majority submissions by parties representing the primary industry groups sought deletion of this definition for “Good Management Practice Nitrogen Loss rates.

Relief Sought:

38. To achieve regional consistency in terms and processes, deleting the definition for ‘Good Management Practice Nitrogen Loss Rates’ is supported.

New Definition for Dairy Support

Original submission

39. FANZ opposed the policy and rule frameworks targeting a specific land use activity rather than addressing the effects of land use activities generically. FANZ sought deletion of provisions targeting ‘Dairy Support’ and if not deleted, provide a definition for “Dairy Support’

Officer report response

40. The Officer report [paragraph 14.67] acknowledged the submissions calling for a definition of Dairy Support, but did not think it was warranted and no recommendation is made.

Comment

41. Subject to deletion of agricultural sector specific provisions the Officer report is accepted. If policy and rule specific to ‘dairy support’ remain, then a definition should be provided.

Relief Sought:

42. Accept the Officer report recommendations, subject to agriculture sector specific (dairy support) policy and rules being removed. If policy and rules specific to dairy support remain, then accept the FANZ submission for a definition of 'dairy support' to be provided.

Policy 13.4.9 (a-d)

Original submission

43. FANZ supports Policy 13.4.9 (a-d) and sought it is retained subject to review and confirmation of percentage reductions in nitrogen loss required to meet the correct balance between social, economic, cultural and environmental wellbeing; noting there remains uncertainty in estimates for required catchment loads.

Officer report response

44. The Officer report acknowledges a very wide range of submissions including the FANZ submission, but [paragraph 9.59] recommends:

“Overall, a range of adjustments to the Policy are recommended, in order to make the structure and content of the Policy clearer and more certain”

45. Recommended changes to Policy 13.4.9 are as follows:

13.4.9 Improve the overall water quality in the Hinds/Hekeao Plains Area by:

- (a) establishing two management areas, the Upper Hinds/Hekeao Plains Area and Lower Hinds/Hekeao Plains Area;*
- (b) improving management of nitrogen¹³⁵, microbial contaminants ~~microbes~~¹³⁶, phosphorus and sediment in both areas;*
- (c) preventing ~~restricting~~¹³⁷ increases in nitrogen losses in the Upper Hinds/Hekeao Plains Area; ~~and~~*
- (d) reducing overall nitrogen losses by 45 percent in the Lower Hinds/Hekeao Plains Area; and¹³⁸*
- (e) adopting the use of managed aquifer recharge to augment groundwater and/or surface water.*

Comment

46. “Preventing” increases in nitrogen loss is absolute in its nature and may not be possible or necessary at all site specific circumstances, provided the water quality values and objectives of the National Policy Statement for Management of Freshwater are achieved.
47. It is noted 13.4.9 (d) provides for ‘overall’ reduction in nitrogen losses by 45 % ...to meet the water quality values. Therefore it remains consistent for 13.4.9 (c)

to provide for; preventing 'overall' increases in nitrogen losses, to achieve the water quality objectives.

Relief Sought:

48. Further amend Policy 13.4.9 (c) as follows;

(c) Preventing overall ~~restricting~~ increases in nitrogen losses in the Upper Hinds/ Hekeao Plains Area:

Policy 13.4.11

Original submission

49. FANZ cautioned about making the link between farm loss estimates and a specific catchment load value of 144 Tonnes of nitrogen due to the limitations in science. FANZ also noted that maintaining phosphorus loss may or may not be appropriate to achieve water quality values. FANZ sought amendment to Policy 13.4.11 as follows:

"...requiring all farming activities to operate at good management practices to ~~maintain current control~~ phosphorus losses"

Officer report response

50. The Officer report has commented:

"Further amendment could be made by removing the 114 tonnes, but this is not recommended at present. This adjustment improves certainty and clarity with respect to expectations for this part of the Hinds/Hekeao Area."

51. The only amendment to the policy 13.4.11 is recommended as follows:

"Maintain water quality in the Upper Hinds/Hekeao Plains Area by capping discharges of nitrogen at 114 tonnes of nitrogen per year and requiring all farming activities to operate at good management practice to ~~maintain~~ ^{reduce}¹⁵⁴ current phosphorus losses."

Comment

52. While reduction of N loss is generally assessed against a defined benchmark, reduction of phosphorus losses are not so clear. If the measure against which phosphorus loss is to be reduced is unclear, then there is the risk of a requirement for continuous reduction, year after year, which is impractical not likely to be necessary.

53. Water quality values are to be achieved by demonstrating good management of phosphorus loss, not by continuous reduction.

Relief Sought:

54. Amend 13.4.11 as follows:

“Maintain water quality in the Upper Hinds/Hekeao Plains Area by capping discharges of nitrogen at 114 tonnes of nitrogen per year and requiring all farming activities to operate at good management practice to ~~maintain current control~~ phosphorus losses.”

Policy 13.4.13 (b)

Original submission

55. FANZ sought deletion of Policy 13.4.13 (b), deletion of Table 13 (h), and a review the approach needed to achieve water quality values once the Good Management Practice Nitrogen Loss Rates are known. It was noted a requirement for the specified percentage of N loss reductions beyond ‘Good Management Practice N loss’ cannot be justified if the Good Management Practice N loss values are not yet known.

Officer report response

56. Regrettably the Officer report [paragraph 9.77] records in error that FANZ sought to retain Policy 13.4.13(b) when FANZ sought its deletion, never-the-less the submission point for deletion was acknowledged in relation to the Ravensdown submission.

57. Rather confusingly at Paragraph 9.93, the Officer report agrees that:

“..... there are some aspects of the Variation that appear overly specific, particularly in terms of referencing a named set of loss rates, which are not yet available. Due to the uncertainty regarding this, I generally recommend changing to a more descriptive policy framework that identifies the loss rates are those that would occur under farming practices that implement good management practices, rather than identifying the good management practice nitrogen and phosphorus loss rates as a specific and identified number.”

58. However the recommended amendments retain the catchment load values specified in the proposed policy, and retain the reference to 27kg N/ha/yr nitrogen loss calculation, and, while deleting Table 13 (h), the recommended amendment brings the Table 13 (h) percentage reductions into this policy, with the following proposed text:

“Policy 13.4.13

Farming activities and ~~including~~¹⁴² farming enterprises in the Lower Hinds/Hekeao Plains Area, whether or not they are supplied with water by an irrigation scheme or a principal water supplier, achieve a target load of 3,400 tonnes of nitrogen per annum ~~year-by~~ 2035 through¹⁴³:

- (a) requiring, from 1 January 2017, all existing farming activities to discharge no more nitrogen than the loss rate that could reasonably be expected from the implementation of ~~meet~~ good management practices, nitrogen loss¹⁴⁴ rates from 1 January 2017, calculated on the baseline land uses;
- (b) requiring, from 1 January 2020, time framed further reductions beyond those set out in (a) for dairy farming and dairy support¹⁴⁵ of:
- from 1 January 2020, dairy 15% and dairy support 10% reductions;
- from 1 January 2025, dairy 25% and dairy support 15% reductions;
- from 1 January 2030, dairy 35% and dairy support 20% reductions; and
- from 1 January 2035, dairy 45% and dairy support 25% reductions; and
- ~~from 1 January 2020, in accordance with Table 13(h); and¹⁴⁶~~
- (c) enabling, ~~by way of resource consent process, land use intensification or changes in land use~~ increases in nitrogen losses, beyond that for the baseline land use, on a maximum of 30,000 hectares of land, provided the nitrogen loss calculation is limited to no more than 27 kg per hectare per year."

Comment

59. The issue remains that targeting a particular sector is inappropriate, and percentage reductions required against good management practice losses are not yet known and should not be enshrined in policy at this time. The percentage reductions to be achieved can be introduced when known, through a plan change or guidance document.
60. If the policy requires the target catchment nitrogen load to be achieved by 2035, then further reductions in N loss from 2035 are not required.
61. Furthermore, the Policy enshrines values of 3400 tonnes of N as the target N load, which is not appropriate, as science estimates will revise the actual value required. A more flexible approach is required. Reduction in total load as a percentage of the current load provides an option.

Relief Sought:

62. Accept part of the proposed new wording, but insert additional new text shown as double underlined and delete text as shown as double strikethrough, as follows;

Policy 13.4.13

Farming activities and including¹⁴² farming enterprises in the Lower Hinds/Hekeao Plains Area, whether or not they are supplied with water by an irrigation scheme

or a principal water supplier, achieve a target load which is [X] % of the current load of 3,400 tonnes of nitrogen per annum year by 2035 through¹⁴³:

- (a) requiring, from 1 January 2017, all existing farming activities to discharge no more nitrogen than the loss rate that could reasonably be expected from the implementation of meet good management practices, nitrogen loss¹⁴⁴ rates from 1 January 2017, calculated on the baseline land uses;
- (b) requiring, ~~from 1 January 2020, time framed further~~ sequentially stepped reductions on a catchment basis beyond those set out in (a) as required to meet the target load by 2035 for dairy farming and dairy support¹⁴⁵ of:
- from 1 January 2020, dairy 15% and dairy support 10% reductions;
- from 1 January 2025, dairy 25% and dairy support 15% reductions; and
- from 1 January 2030, dairy 35% and dairy support 20% reductions; and
- from 1 January 2035, dairy 45% and dairy support 25% reductions; and
- from 1 January 2020, in accordance with Table 13(h); and¹⁴⁶
- (c) enabling, by way of resource consent process, land use intensification or changes in land use increases in nitrogen losses, beyond that for the baseline land use, on a maximum of 30,000 hectares of land, provided the nitrogen loss calculation is limited to no more than 27 kg per hectare per year.

Policy 13.4.13 (c)

Original submission

63. FANZ submitted in support of providing for additional land use intensification within environmental limits, however the 27 kg/ha/yr N loss cap may be unnecessarily restrictive while the loss rates under Good Management Practice are still to be determined.
64. FANZ sought the 27kg N/ha/yr loss rate to be replaced with a proportion of the “Good management practice nitrogen loss rate”, once known.

Officer report response

65. The Officer report addressed Policy 13.4.13.c) in combination with the above issues.

Comment

66. With the recommendation to delete the definition for “Good management practice nitrogen loss rate” the submission point is withdrawn.

Relief Sought:

67. Accept the Officer report recommendation for amendment to Policy 13.4.13 (c)

Rule 13.5.8

Original submission

68. FANZ sought to retain the rule as permitted activity.

Officer report response

69. Rules 13.5.8, 13.5.9, 13.5.11 and 13.5.12 were considered together in the Officer report with a recommendation for no change.
70. The Officer report [paragraph 9.251] stated there is no compelling reason to depart from the existing rule and recommended no change.

Relief Sought:

71. Accept the Officer report recommendation for Rule 13.5.8

Rule 13.5.9

Original submission

72. FANZ sought to retain the rule as permitted activity.

Officer report response

73. As for Rule 13.5.9 the Officer report stated [paragraph 9.251] there is no compelling reason to depart from the existing rule and recommended no change.

Relief Sought:

74. Accept the Officer report recommendation to retain Rule 13.5.9 with no change.

Rule 13.5.10

Original submission

75. FANZ sought for activities which could not comply with permitted activity conditions to be 'controlled' activity rather than the current 'discretionary' activity.

Officer report response

76. The Officer report has addressed Rules 13.5.10 and 13.5.18 together.
77. It notes that Variation 2 has a relatively basic rule framework that provides for farming enterprises as a discretionary activity, subject to conditions, and that:

78. During the Variation 1 process it was identified that the policy and rule framework would benefit from a more specific set of provisions for farming enterprises, particularly to account for what happens for individual farms that may enter or leave the farming enterprise.
79. On this basis, the Officer report recommends some adjustments to the rule framework to provide for farming enterprises with greater certainty [paragraphs 9.355 to 9.377].
80. A new Policy 13.5.13 A is recommended and amendments to condition 1 -3 of Rules 13.5.10 and 13.5.18 are recommended, while there is no change to the 'discretionary activity status'

Comment:

81. The new Policy 13.5.13A enabling the establishment and disestablishment of farming enterprises, while addressing aggregated nitrogen loss within the rule framework is supported.
82. The submission seeking controlled activity status is not being pursued, but restricted discretionary consent is sought.

Relief Sought:

83. Accept the Offer report recommendation for Rules 13.5.10 and 13.5.18, with further amendment to the activity status for Rules 13.5.10 and 13.5.18 to restricted discretionary activity, with the matters of discretion restricted to those related to nutrient loss.

Rule 13.5.11

Original submission

84. FANZ sought Rule 13.5.11 be amended from non-complying to restricted discretionary activity status.

Officer report response

86. Rules 13.5.8, 13.5.9, 13.5.11 and 13.5.12 were considered together in the Officer report with a recommendation for no change [paragraph 9.252].

Comment

87. Restricted discretionary activity provides flexibility to address activities on a case by case basis to address matters relating to nutrient losses. Non-complying status puts the onus on the land manager to demonstrate there are no more than minor adverse effects at a catchment scale to meet the plan's objectives.

88. If viable agriculture is to be supported, the land manager for existing farming activities is better placed to address these catchment scale impacts in concert with regional council, under restricted discretionary activity status.

Relief Sought:

89. Amend Rule 13.5.11, as follows:

The use of land for a farming activity that does not comply with conditions 2 or 3 of Rule 13.5.9 or condition 3 of Rule 13.5.10 is a ~~non-complying~~ restricted discretionary activity.

Rule 13.5.13

Original submission

90. FANZ supports permitted activity status farm activities, subject to practical and workable conditions.
91. FANZ sought retention of Rule 13.5.13 as permitted activity

Officer report response

92. The officer report addressed a number of rules in combination, i.e. Rule 13.5.13; 13.5.15; 13.5.16; 13.5.17; 13.5.19; 13.5.20 [paragraphs 9.301to 9.335]
93. It recommended Rules 13.5.13; 13.5.15; 13.5.16; 13.5.19 and 13.5.20 are retained.

Comment

94. The retention of Rule 13.5.13 as permitted activity, is supported by the Officer report recommendation

Relief Sought:

95. Accept the Officer report recommendation to retain Rule 13.5.13

Rule 13.5.14

Original submission

96. FANZ sought the activity status in Rule 13.5.14 to be amended from discretionary to restricted discretionary activity.
97. FANZ also sought clarification of the intention of the rule as the rule appears to create conflict with Rule 13.5.15 which provides for permitted activity status.
98. Ravensdown, in its submission, sought deletion of the rule as the matters it intends to address are essentially covered in Rules 13.5.15 – 13.5.20.

Officer report response

99. While the FANZ submission for restricted discretionary consent is acknowledged, [paragraph 9.286], the need for clarification of its intent and Ravensdown's submission for the rule to be deleted do not appear to be addressed in the Officer report.
100. The Officer report response addresses the issues around allowance for intensification of up to 30,000 ha, as raised by a number of submitters.
101. The Officer reports [paragraph 9.297] states;

"The view that has been reached at the Zone Committee and the Canterbury Regional Council, and which I am not recommending a departure from, is that there is considerable scope for improvement in the performance of the most heavily leaching sectors, being dairy and dairy support, and at the same time there is an overriding need to provide for additional economic development in the Hinds/Hekeao Plains Area through enabling a moderate level of intensification. This intensification is to a nitrogen leaching rate where nitrogen leaching rates are generally understood to be similar to what will be required by the dairy sector after the 45% reductions from good management practice are applied. "

Comment

102. On review of the rules, there appears to be a conflict with the activity status provide by Rules 13.5.15 to 13.5.20, because Rule 13.5.14 states that despite these rules 13.4.15 to 20, the activity status for the use of land for a farm activity or a farming enterprise is discretionary activity, subject to conditions.
103. Reviewing the Officer report response quoted above, in response to other submissions on this rule, it would appear the rule is intended to provide for intensification, up to 30,000 ha, and up to 27 kg N /ha/yr under controlled conditions.
104. However FANZ does not consider this is what the rule provides for; but instead it requires discretionary consent for land use for farming activities in the Lower Hinds /Hekeao area.
105. If it is intended for Rule 13.5.14 to provide for restricted increases above Baseline N loss, then it should state this within the rule.
106. If Rule 13.4.15 is retained then for on-going business investment and development, there is more certainty if the matters to be addressed are identified in the planning documents. For these reasons restricted discretionary consent allows for appropriate control on the matters pertaining to nutrient loss, and more certainty for the farm business.
107. Matters for discretion would be expected to relate to nutrient management and the catchment load.

Relief Sought:

108. FANZ seeks amendment to Rule 13.5.14 as follows:

13.5.14 Despite any of Rules 13.5.15 to 13.5.20 the use of land for a farming activity or farming enterprise in the Lower Hinds/Hekeao Plains Area which increases its nitrogen loss calculation above the nitrogen baseline is a restricted discretionary activity, provided the following conditions are met:

109. Then, as per the Officer report recommendations for amendments to the conditions for Rule 13.5.14

Rules 13.4.15 to 13.5.17

Original submission

110. FANZ sought amendment of Rules 13.5.15, 13.5.16, 13.5.17, noting the threshold N loss which applies in Rule 13.4.14, should be addressed as a relative measure rather than an absolute value such as 27 kg n/ha/yr.

111. FANZ sought amendment of matters for discretion under Rule 13.5.17, to;

“From 1st January 2017 the Good Management Practice Nitrogen Loss Rates are applied. These Good Management Practice Nitrogen Loss Rates are calculated based on ~~to be applied for~~ the baseline land use under Good Management Practice.”

Officer report response

112. The Officer report addressed Rules 13.5.13 to 13.5.15 and rules 13.5.19 to 13.5.20 together, and sought to retain Rules 13.5.13; 13.5.15; 13.5.16; 13.5.19 and 13.5.20, but recommended amendment to matters of discretion for Rule 13.5.17 [paragraph 13.5.17] ;

Comment

113. FANZ submission for amendment of Matters for discretion under Rule 13.5.17 no longer applies if the term ‘Good Management Practice Nitrogen Loss Rates’ is deleted from the Plan Change.

114. The amendment to Rule 13.5.17 includes new reference to a Policy 13.4.13, which if recommendations of the officer report are accepted, will include new percentage reductions in Nitrogen loss for dairy and dairy support.

115. The amendments recommended in Officer report for Rule 13.5.17 are supported subject to FANZ submission points and further amendment to on Policy 13.4.13, in keeping with FANZ submission.

Relief Sought:

116. Accept the recommendations in the Officer report, for Rules 13.5.15 to 13.5.17, subject to FANZ submission points on Policy 13.4.13 and further amendment to Policy 13.4.13 in keeping with FANZ submission.

Rule 13.5.18

Original submission

117. FANZ sought deletion of Rule 13.5.18 on the basis that there is no reason for a farm activity as part of a farming enterprise to have a different activity status, and the rule add little to the provisions under Rule 13.5.15 to 13.5.18.

Officer report response

118. The Officer report addressed Rule 13.5.10 and 13.5.18 together.
119. It concludes, [paragraphs 9.356 and 9.357], as per the comments on Rule 13.5.10;
- “During the Variation 1 process it was identified that the policy and rule framework would benefit from a more specific set of provisions for farming enterprises, particularly to account for what happens for individual farms that may enter or leave the farming enterprise.*
- On this basis, I have recommended some adjustments to the rule framework to provide for farming enterprises with greater certainty. In addition, policies, based on the Variation 1 process, are also recommended. That being said, the overall framework, and need for these activities to comply with the policy framework, particularly Policy 13.4.13, remains. “*
120. A new Policy 13.4.13 A and amendments to Rules 13.4.10 and 13.4.18 are recommended

Comment

121. The intent of the recommended amendments in the Officer report are accepted, however if the Rule is not deleted as sought, the provisions of Rule 13.5.18 should be applied as ‘restricted discretionary’ activity status.

Relief Sought:

122. Accept the Offer report recommendation for Rule 13.5.10 and 13.5.18, with further amendment to the activity status for Rule 13.5.10 and 13.5.18 to ‘restricted discretionary’ activity, with the matters of discretion restricted to those related to nutrient loss.

Rule 13.5.19

Original submission

123. FANZ noted the objective of the plan can be achieved with discretionary activity status for Rule 13.5.19, and that a non-complying activity status removes flexibility for the regional council to issue consents. FANZ sought amendment of the activity status for Rule 13.5.19 from non-complying to discretionary activity.

Officer report response

124. The Officer report addressed Rules 13.5.13, 13.5.15 to 13.5.17, 13.5.19 and 13.5.20 together. It acknowledged FANZ submission on Rule 13.5.19. In response to a range of submissions the Officer report comments [paragraph 9.329] on the rules considered, as follows;

“A number of submissions challenge specific provisions within this rule framework, and particularly the thresholds and activity status for various rules. Many of these issues have been well traversed in the discussion on the policy frameworks above, as well as through both the LWRP hearings and the Variation 1 hearings. In general, I have recommended minor adjustments to these rules, but have not sought to depart substantially from the overall framework and activity status”

125. No change was recommended for Rule 13.5.19.

Relief Sought:

126. FANZ seeks amendment of the activity status for Rule 13.5.19 to ‘Discretionary’ activity for the reasons given in its submission.

Rule 13.5.21

Original submission

127. FANZ sought to retain Rule 13.5.21

Officer report response

128. The Officer report has considered Rules 13.5.21 to 13.5.23 together, and sought no change. [paragraph 9.377]

Relief Sought:

129. Accept the Officer report recommendation for Rule 13.5.21

Rule 13.5.22

Original submission

130. FANZ submitted that the objectives of the Plan can be achieved with the activity status of this rule as 'restricted discretionary' activity, and it does not need to be discretionary.
131. It also noted that Table 13(i) requires reduction based on Good Management Practice Nitrogen Loss Rates, with a percentage reduction reference to Table 13 (h). FANZ submitted that as the N loss under these rates and the N loss reduction required is not yet known, it is not possible to determine the correct percentage loss rates.

Officer report response

132. The Officer report comments: [paragraphs 9.375 and 9.376]

"The framework of the Variation is very much based on schemes being issued with a discharge consent that enables the management of nutrients by the scheme, thereby reducing the compliance costs and resource consenting required from individual farmers. This also results in a specific rule framework and load calculation for irrigation schemes. In my view, this is a considerable advantage for individual farmers, and encourages farmers toward this central management framework. The Canterbury Regional Council, from a management perspective, is in favour of such a regime and given the benefits that I perceive, I am of a view that those properties that are supplied with irrigation scheme water ought to be managed by the irrigation scheme. While scope is limited on this issue, I would prefer a policy that was more explicit on this matter.

The rules relating to irrigation scheme consents explicitly state that such consents will be treated without limited or public notification pursuant to Section 95. This is the only occurrence of such a provision in the Variation. This has been supported by a number of submitters."

133. The Officer report recommends retaining the Rules 13.5.22 and 13.5.23

Comment

134. It remains that restricted discretionary activity status is sufficient to meet the objectives of the Plan.
135. It is noted it is recommended that the definition Good Management Practice Nitrogen Loss Rates is deleted, therefore there is a consequential change to Table 13(i) to apply 'nitrogen loss rates which can reasonably be expected from implementing good practice'.
136. Following the Officer report recommendations, the percentage reductions referenced to Table 13 (h), are now referenced to Policy 13.4.13
137. It is assumed that 'nitrogen loss rates that can reasonably be expected from implementing good practice' will now be used instead, and these rates will be the

values generated in the Matrix of Good Management Programme. It is not yet known what these rates will be, or what the necessary percentage reduction should be to achieve the Plans objectives, and so the FANZ submission point remains.

Relief Sought:

138. Adopt the relief sought by FANZ original submission, to amend Rule 13.5.22 to replace “discretionary activity’ with “restricted discretionary activity”.
139. If Policy 13.4.13 is amended as per the FANZ submission point above (paragraph 62) i.e. the percentage reductions for N loss are deleted, the amendments for Rule 13.5.22 (2) could be accepted, as the stepped percentage reductions are yet to be determined and can introduced through a plan change.

Rule 13.5.23

Original submission

140. Rule 13.5.23, requires that discharge of nutrients into or onto land that may result in contaminants entering water, that would otherwise contravene Section 15(1) of the RMA, that does not meet one or more of the conditions of Rules 13.5.22, is a prohibited activity.
141. FANZ submitted that the objective of the Plan can be achieved using discretionary activity status and prohibited activity status removes all flexibility to provide for the benefits of the land use activity where adverse effects can be avoided remedied or mitigated.

Officer report response

142. The Officer report addressed Rules 13.5.21 to 13.5.23 together and sought no change. [paragraph 9.3.77]

Comment

143. FANZ submission points remain.

Relief Sought:

144. Amend Rule 13.5.23 to delete ‘prohibited activity’ and insert ‘discretionary activity’

Rule 13.5.24

Original submission

145. FANZ supports permitted activity and sought to retain Rule 13.5.24 as written.

Officer report response

146. Rules 13.5.24 and 13.5.25 are addressed together and the Officer report comments they are considered an integral component of how the nutrient, sediment and microbial contaminant rules work. No changes are recommended. [paragraphs 9.384 and 9.386]

Comment

147. Retention of Rule 13.5.24 as worded is supported.

Relief Sought:

148. Retain Rule 13.5.24 as worded.

Rule 13.5.25

Original submission

149. FANZ sought retention of Rule 13.5.25

Officer report response

150. Rules 13.5.24 and 13.5.25 are addressed together and the Officer report comments they are considered an integral component of how the nutrient, sediment and microbial contaminant rules work. And no changes are recommended. [paragraphs 9.384 and 9.386]

Comment

151. FANZ supports retention of the Rule 13.5.25, however to be consistent with submissions on Rules 13.5.5 to 13.5.20, the activity status should be amended to 'Restricted Discretionary' activity. It is noted Fulton Hogan sought restricted discretionary activity status for rule 13.5.25.

Relief Sought:

152. Amend Rule 13.5.25 to 'Restricted Discretionary' activity.

Table 13(g)

Original submission

153. FANZ sought review by an expert panel in determining the links between farm system losses and the overall catchment load, engaging representatives from all stakeholders.

Officer

154. The Officer report acknowledges FANZ submission and a number of other submissions seeking review of the load values of set timeframes.

155. The Officer reports comments:

“ 9.138 The load limits have been set in Variation 2 through a science informed collaborative planning process. The submissions on the load limits question whether the quantities are correct, seek an alternative methodology to be incorporated into the Variation, or seek an alternative timeframe with respect to the Lower Hinds/Hekeao Plains Area target.

9.139 The determination of the limits and targets through the Zone Committee process is set out within the technical reporting, particularly Bower 2014 and Scott 2014. In addition, a simple summary is set out within the memoranda attached to this report from Scott and Bower, dated 3 April 2015. The technical advice from Canterbury Regional Council scientists is that the limits and targets are appropriate.

9.140 A number of submitters have a fundamental concern with respect to the modelling processes, and in particular changes in the Overseer version (such as Hind Plains Land and Water Partnership, A. Studholme, Dairy Holdings and Eiffelton Community Irrigation Scheme), which may lead to different numbers for individual farms or the Hinds/Hekeao Plains Area when aggregated, such that the targets or limits are unable to be met despite improvements in farming practice. Several of these submitters have suggested a formula type approach to identifying a limit or a target that may change from year to year.

9.141 The Canterbury Regional Council is aware of the issues that will occur with its planning documents with changes in Overseer versions that lead to individual farms and aggregated catchment modelling changing leaching levels through only changes in Overseer versions. This is an issue that is causing difficulties throughout the region, not just the Hinds/Hekeao Plains Area. While it is of potentially little comfort to the submitters, I understand that a resolution is near, which may require a Plan Change process. Such a resolution would be applied region-wide. On this basis, and without considering whether any particular formula is appropriate, I am not recommending any change to the table.

9.142 That being said, it is noted that the relevant numbers of 114 and 3400 tonnes are not referenced particularly through any rules, and would require future modelling processes to identify whether the limits and targets were being met. On this basis, while supported through the CWMS, the load limits provide little value with respect to Variation 2.

9.143 The submitters that identify different timeframes or stepped values toward the target are broadly addressed in the section relating to Table 13(h). On this basis, I am not recommending any specific changes. Submissions seeking reviews are addressed under Policy 13.4.13.”

156. In relation to reviews addressed under Policy 13.4.13 the Officer report states:

“9.95 While it is likely to be inappropriate to include specific requirements for time-framed review within the LWRP, I do note the overall obligations on the Canterbury Regional Council to ensure that its Plan provisions are effective through the undertaking of periodic reviews, including monitoring under section 35 of the RMA and the complete review of plans required every 10 years. While a 10 year timeframe is less than ideal, the ongoing commitment of the Canterbury Regional Council and the Zone Committee to monitor its Plan implementation and effectiveness, and undertake reviews of provisions when outcomes are not being met is, in my view, more appropriate than setting specific, time-framed reviews, which would theoretically bind a future Council.

9.96 Further, the suggestions to undertake a significant recalculation of targets (especially the 3400 tonnes of nitrogen per annum) are not supported. The Canterbury Regional Council has undertaken the setting of limits and targets under a science informed, collaborative process. In general, the methodologies proposed require significantly more research and analysis, and would likely amount to re-starting the process.”

Comment

157. FANZ submits that as with Overseer in relation to nutrient cycles in farm systems, continuous improvement in the science and knowledge should be incorporated into the model, and so it is that the catchment models and catchment targets should be reviewed and updated, by an expert panel.
158. The Officer report [paragraph 9.95] states reviews should be undertaken when outcomes are not being met.
159. FANZ submits that waiting until ‘outcomes are not met,’ risks significant impacts on environment or economy or social wellbeing, and that reviews should be conducted within a reasonable time frame so that the Plans objectives and outcomes can be most readily met.
160. The NPSFM preamble recognises that planning is an iterative process. FANZ submits caution should be exercised with the load limits presented in Table 13 (g), and supports provision for expert review.

Relief Sought:

161. As per FANZ original submission FANZ seeks caution introducing regulatory requirements linking farm system losses with total catchment load, and provision for review of the catchment load in Table 13 (g), by expert panel with representatives from all stakeholders.

Table 13(h)

Original submission

162. FANZ sought deletion of reference to Table 13(h)

Officer report response

163. The Officer report recommends deleting Table 13 (h), and introducing the percentage reductions for dairy and dairy support farms into Policy 13.4.13.

Comment

164. FANZ supports the Officer report recommendation to delete Table 13(h), but is opposed to introducing the percentage reductions for nitrogen loss rates from Table 13 (h) into Policy 13.4.13.

Relief Sought:

165. Accept the Officer report recommendation to delete Table 13 (h). However, the introduction of percentage reductions for nitrogen loss rates for dairy and dairy support activities into Policy 13.4.13 is opposed for the reasons given under submission points on Policy 13.4.13

Table 13(i)

Original submission

166. FANZ sought amendment of Table 13(i) to remove reference to Table 13 (h).

Officer report response

167. The Officer report has recommended removal of reference to Table 13(h), however the percentage reductions within Table 13(i) is recommended to be included within Policy 13.4.13, and it is recommended this policy is referenced within Table 13(i).

Comment

168. FANZ supports the Officer report recommendation to delete the reference to Table 13(h), within Table 13(i) but is opposed to introducing the percentage reductions for nitrogen loss rates from Table 13(h) into Policy 13.4.13.

Relief Sought:

169. Accept the Officer report recommendation to delete reference to Table 13(h), within Table 13(i). However, the introduction of percentage reductions for nitrogen loss rates for dairy and dairy support activities into Policy 13.4.13 is opposed for the reasons given under submission points on Policy 13.4.13.

Tables 13(j) and 13(k)

Original submission

170. FANZ submission provided support for the general intent of Table 13(j), however requested provision for review by an expert panel engaging all stakeholders.

Officer report response

171. The Officer report addresses Table 13(j) and 13(k) together.
172. It acknowledges the FANZ submission, however the report states:
“Tables 13(j) and 13(k) are, in my opinion, the most significant targets and limits in the Variation. They are readily able to be measured, have timeframes that are within the foreseeable future, and with respect to the surface water bodies, are well aligned with the NPSFM”. [paragraph 9.185]
173. The Officer report also comments:
“Particular difficulty arises with respect to Table 13(j), where the title identifies that the table contains “limits/targets”. However, the content of the final column of the table makes it clear that it contains targets. On this basis, I concur with the submitters that suggest that there should be clarity as to whether these numeric concentrations are limits or targets.”[paragraph 9.186]
174. The Officer report has recommended that for both Table 13(j) and 13(k) the title is amended from *“Limits/targets for...”* to simply *“Targets for...”*

Comment

175. Given the significance of the values presented in Tables 13(j) and 13(k) the FANZ submission to provide for review by an expert panel engaging all stakeholders remains.
176. With regard to the recommendation to stipulate specifically that Tables 13(i) and 13(k) values are targets and not limits, FANZ, disagrees. The Limits/Target definition for the table heading is appropriate because between now and 2035, where these values are being met they become a limit, and where they are not met they are target. It is most likely that within the tables some values during the duration of the Plan will be targets and some will be limits.

Relief Sought:

177. Provide for expert review of Tables 13(j) and 13(k) engaging all stakeholders.
Retain the title heading *“Limits/Targets for ...”* in Tables 13(j) and 13(k).

Concluding Statement

178. Thank you for the opportunity to present this Hearing submission before the Hearing Panel for Proposed Variation 2 of the Canterbury Land and Water Regional Plan.

End



Greg Sneath

Executive Manager

The Fertiliser Association of New Zealand

15 May 2015