

BEFORE THE

Canterbury Regional
Council independent
hearing panel: David
Sheppard (Chair), Raewyn
Solomon and Rob van
Voorthuysen

IN THE MATTER OF

The Resource Management
Act 1991 and the
Environment Canterbury
(Temporary Commissioners
and Improved Water
Management) Act 2010

AND

IN THE MATTER OF

Variation 2 (Section 13
(Ashburton) of the proposed
Canterbury Land and Water
Regional Plan

**REPLY TO QUESTIONS ASKED BY HEARING PANEL AT FEDERATED
FARMERS HEARING SLOT ON 17 JUNE 2015**

Dated 24 June 2015

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Question 1

Where is the scope for Federated Farmers' suggested amendment to Rule 13.5.9. (paragraph 37, evidence of Fiona Mackenzie)?

Answer:

Federated Farmers requested a flexibility cap in its original submission on Variation 2, dated 24 October 2014, at page 11.

Rule 13.5.9 (p 7)

Submission

Oppose.

Rule 13.5.9 requires farming activities in the Upper Hinds/Hekeao Plains Area to stay at or below their nitrogen baseline and either implement the practices in Schedule 24a or prepare and implement a Farm Environment Plan (in order to have permitted activity status).

Requiring farming activities to operate at or below their N baseline would have the effect of preventing any intensification, would limit productive potential in the area and would likely have adverse effects on land values and equity in farmland.

This approach is inherently unfair because it 'grand-parents' N discharge to existing land-use within the Upper Plains area, disadvantaging those with lower N baselines compared with those having higher N baselines. It also disadvantages the Upper Plains land users compared with other land users in the catchment who have greater flexibility, including the ability to intensify, as part of an irrigation scheme or as an individual up to an N discharge of 27 kg/ha/year.

The rule is particularly inequitable in situation where farmers have invested in environmental protection at the expense of land improvement in a more commercial sense.

Decision sought

Delete Part 1 and provide an appropriate flexibility threshold, below which farmers can change land use as a permitted activity, to enable flexibility of land use within the Upper Plains area. Amend the discharge cap accordingly.

Other party submissions on a Rule 13.5.9 flexibility cap

- Fish & Game

Fish & Game's submission dated 24 October 2014, on rule 13.5.9 asks for a 20kg cap for permitted farming.

Delete grandparenting clause 1 and insert 20kg or LUC leaching rates. Permitted activity rule should be clear and certain and not contain elements of subjectivity or discretion or require third party audit. Permitted activities should include numerical standards which ensure that significant adverse effects on the environment do not occur either as a result of an activity or due to cumulative activities.

- Ngai Tahu

Ngai Tahu's submission dated 24 October 2014 at page 6 supports the view that nitrogen is not the main risk to water quality in the Upper Hinds and explicitly introduces a range of flexibility caps in Table XX.

For permitted activity farming these caps are: up to 10kgN/ha/yr in Upper Hinds and up to 15kgN/ha/yr in Lower Hinds, but these have been revised (in evidence for the hearing) to a flexibility cap up to 15kgN/ha/yr for both Upper and Lower Hinds.

- Upper Hinds Plains Land User Group

Rejects the need for any condition on N losses

- Hinds Plains Land and Water Partnership

In its submission 24 October 2014, HPLWP supports the Upper Hinds Plains Land User Group in its submission on Rule 13.5.9 but in the event this is not acceptable, in its further submission 30 January 2015, supports a flexibility cap for permitted farming in the Upper Hinds.

At Fish and Game submission on 13.5.9: *Fed Farmers sub is also a valid option i.e. delete condition 1 and introduce an appropriate flexibility threshold.*

Federated Farmers believes there is ample scope for a catchment-wide flexibility cap. This approach would simplify Plan implementation for Ecan, and eliminate unnecessary rules for low N-loss farmers. It would make the Plan easier to understand for farmers, and would achieve better outcomes, by focussing efforts on the main source of the problem.

Question 2.

Re amendment sought to Policy 13.4.13, at paragraph 41 in the evidence of Fiona Mackenzie for Federated Farmers.

What is meant by the phrase: *'the balance available for this purpose in the catchment'*, at paragraph 41 b(ii).

Note: The numbering of par 41(b) was corrected for the panel at the hearing to read as follows:

- b. Enabling, from 1 January 2017, only minor increases in nitrogen discharge from farming activities so that existing farming activities with a nitrogen loss rate, after adoption of good management practices:*
 - i. of less than 15kg of nitrogen per hectare per annum can increase nitrogen loss to a maximum of 15kg of nitrogen per hectare per annum; and*
 - ii. of between 15kg of nitrogen per hectare per annum and 20kg of nitrogen per hectare per annum, can increase the discharge of nitrogen to a maximum of 20kgs of nitrogen per hectare per annum, provided the aggregate increase in nitrogen from*

these b)ii farming activities does not exceed the balance available for this purpose in the catchment.

This was an attempt to avoid setting the amount of N loss available for b(ii) activities at a fixed amount of 25 tonnes of nitrogen per annum, as proposed in the Willis evidence for Dairy NZ and Fonterra, as this estimate (25 tonnes) may be quite wrong.

We agree that the policy b(ii) as we have drafted it above is not clear and we should have simply removed all words in b(ii) after the third 'annum', as follows:

- ii. of between 15kg of nitrogen per hectare per annum and 20kg of nitrogen per hectare per annum, can increase the discharge of nitrogen to a maximum of 20kgs of nitrogen per hectare per annum.*

Any proviso as to breach of catchment N limit should be attached to 13.4.13 (c) of the Officers 42A report version, rather than 13.4.13(bii) above— as this additional 30,000 ha of land use change (as well as existing high-leaching farms) is where managing catchment load should occur first, rather than placing claw-backs on low N-loss farming operations.

To be clear, Federated Farmers is seeking to have a 15kg, (and up to 20kg) flexibility cap embedded in policy 13.4.13, without a 25 tonne limitation as has been proposed by the Willis evidence for Fonterra and Dairy NZ. We believe that below-cap nitrogen leaching farms should be allowed to continue farming, without additional regulatory overhead, and that rules should be directed at all farming operations above agreed flexibility thresholds.