

From: [Carey Barnett](#)
To: [Mailroom Mailbox](#)
Subject: Ellesmere Sustainable Agriculture Inc - Submissions on Plan Change 4 to LWRP
Date: Wednesday, 7 October 2015 11:47:01 a.m.
Attachments: [ESAI subs lwp pc4 final 071015.pdf](#)

Hello

Please find attached submissions on Plan Change 4 to the Land and Water Plan from Ellesmere Sustainable Agriculture Inc. A signed hard copy is in the post.

Regards
Carey Barnett

SUBMISSIONS

ON THE

PROPOSED PLAN CHANGE 4 OF THE CANTERBURY LAND AND WATER

REGIONAL PLAN

NAME OF SUBMITTER: Ellesmere Sustainable Agriculture Incorporated.

ADDRESS FOR SERVICE: Ellesmere Sustainable Agriculture Incorporated
c/- C M Barnett
Lakeside
R D 3
LEESTON 7683

CONTACT DETAILS Phone: 03 324 3429
Mobile: 0274888055

SIGNATURE OF SUBMITTER (or person authorised to sign on behalf of submitter)

S Osborne
Chairman – Ellesmere Sustainable Agriculture Incorporated

Background of the Submitter

Ellesmere Sustainable Agriculture Incorporated (hereafter referred to as 'ESAI') is made up of farmers located between the Rakaia and Selwyn Rivers and east of State Highway 1 to the east coast. This area is located within the existing Selwyn Te Waihora and Little Rakaia Zones under the provisions of the Canterbury Land and Water Regional Plan.

ESAI, previously named the Ellesmere Irrigation Society Inc (EISI), was formed in 2009 in order to provide a collective representation on water related issues, predominantly in respect to irrigation and the protection and maintenance of the water resource, both ground and surface water, within the Ellesmere area of the Canterbury Region. Recently the group has expanded its concerns in relation to agriculture and the environment and consequently changed its name in July 2015 to better reflect the widened areas of stakeholder interest. EISI submitted on the Canterbury Land and Water Regional Plan and Variation One to that Plan. ESAI has appealed to the High Court the decision of the Commissioners on Variation One.

ESAI has a significant interest in the Canterbury Land and Water Regional Plan and would be agreeable to engaging in any discussions relating to the matters raised in the following submissions.

The submitter does wish to be heard in relation to this submission.

ESAI could not gain an advantage in trade competition through this submission.

7 October 2015

SUBMISSIONS ON PLAN CHANGE 4 – Please note that the **red wording** below are the proposed amendments provided by ESAI.

Section	Page Number	Part	Support/Oppose	Decision Requested	Reason
Section 2 How the Plan Works and Definitions					
2.9 Definitions, Translations and Abbreviations	2-2	Definition of 'Bore'	Oppose	<p>Re-word point 1 as follows:</p> <p>“means a structure or hole in the ground constructed for the purpose of:</p> <p>1. <u>geotechnical, environmental or hydrological</u> investigations or monitoring conditions below the ground surface; or ...”</p> <p>Make any relevant consequential amendments.</p>	<p>Geotechnical investigations are not the only type of investigations for which bores are constructed. Environmental and hydrological investigations are also undertaken.</p>
2.9 Definitions, Translations and Abbreviations	2-2	Definition of 'Drainage system'	Oppose	<p>Retain existing wording of Land and Water Plan without Plan Change 4 alterations.</p> <p>Make any relevant consequential amendments.</p>	<p>The definition of a drainage system was recently determined on decisions on the Land and Water Plan. There has been no consultation with directly affected parties on this latest change to it.</p> <p>Definition, as proposed to be amended by Plan Change 4, determines that drains are for the purpose of draining water and contaminants. It is worded in such a way that it assumes that all agricultural or rural water is contaminated. There appears to be no substantial supporting evidence provided in the Section 32 report</p>

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2.9 Definitions, Translations and Abbreviations	2-3	Definition of 'Drainage water'	Oppose	<p>Retain existing wording of Land and Water Plan without Plan Change 4 alterations.</p> <p>Make any relevant consequential amendments.</p>	<p>or other documentation that supports this change. There also appears to have been no consultation with private parties that may be directly affected by this.</p> <p>The definition of a drainage system was recently determined on decisions on the Land and Water Plan. There has been no consultation with directly affected parties on this latest change to it.</p> <p>Definition, as proposed to be amended by Plan Change 4, determines that drains are for the purpose of draining water and contaminants from rural and agricultural land. It is worded in such a way that it assumes that all agricultural or rural water is contaminated and attributes all 'blame' to rural entities. There is no understanding provided in the definition that drains service an entire catchment which includes urban land in much of the region – for an example, drains that are located in the Selwyn District transport water from townships such as Leeston, Doyleston, Dunsandel and also help to maintain the entire water table throughout the district. The new proposed definition makes an implicit assumption that the adjacent farmer is responsible for contaminants when this is not the case. It is also important to note that for the most part drains are dry until there is a significant rain event or an extremely long period of high rainfall during winter months. In such cases the drains may only flow for two or three days at the most and are free of sediment or contaminant.</p> <p>There appears to be no substantial supporting evidence provided in the Section 32 report or other documentation that supports this change. There also</p>

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	2-3	Inanga Spawning Habitat	Oppose	Delete this definition. Make any relevant consequential amendments.	appears to have been no consultation with private parties that may be affected by this. There appears to have been no consultation with any private land holders/occupiers or directly affected stakeholders in relation to the location of inanga spawning habitats. Until such time as this consultation is done there should be no insertion of provisions relating to them, especially where there might be restriction on crucial stakeholder activities such as crop planting and harvesting etc. Those directly affected parties need to be consulted to assist determination of the appropriate location of these habitats and sites and the provisions relating to them. The Section 32 Report has not listed any farming or commercial entities that have been consulted as part of this plan change process.
		Vegetation clearance	Oppose in part	Amend point a. of definition as follows: “a. <u>cultivation or harvesting for the establishment of crops or pasture on production land</u> established prior to 5 September 2015 ” Make relevant consequential amendments.	The ESAI supports the inclusion of harvesting to this definition. However, the relevance of the date is surplus to requirements as the cultivation and harvesting on land that might be created as productive land after 5 September 2015 would be minimal and potentially contentious when considering what is ‘productive land’. It is difficult to determine why productive land created after 5 September 2015 might require specific regulation over and above other land.

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Section 4 Policies					
Activity and Resource Policies					
Livestock Exclusion from Water Bodies	4-7	4.31	Oppose	Remove proposed changes in all parts of this policy. Make any relevant consequential amendments.	There appears to have been no consultation with any private land holders/occupiers or directly affected farming groups in relation to the location of inanga spawning habitats. Until such time as this consultation is done there should be no insertion of provision relating to them. Those directly affected parties need to be consulted to assist determination of the appropriate location of these sites and the provisions relating to them. The Section 32 Report has not listed any farming entities that have been consulted as part of this plan change process.
Activities in Beds of Lakes and Rivers	4-7	4.85A	Oppose in part	No specific change requested.	This new policy will impact cultivation and harvesting on 'productive land created after 5 September 2015' and therefore could be unnecessarily restrictive should land changes occur in the future. This is an example of why the definition of vegetation clearance should not have a date specified in it. It is very unusual in a statutory context to have a date specified in a definition as it creates impracticalities in practice and the application of determining when a rule or policy etc might apply. For example, when is land considered to be 'productive'?
	4-8	4.86A and 4.86B	Oppose	Remove these proposed new policies. Make any relevant consequential amendments.	There appears to have been no consultation with any private land holders/occupiers or directly affected farming groups in relation to the location of inanga spawning habitats. Until such time as this consultation is done there should be no insertion of provision relating to them. Those directly affected parties need to be consulted to assist determination of the appropriate

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					location of these sites and the provisions relating to them. The Section 32 Report has not listed any farming entities that have been consulted as part of this plan change process.
Section 5 Region-wide Rules					
Stock Exclusion	5-5	Rule 5.71 point 1.	Oppose	Delete proposed amendment to point 1 of this rule. Make any relevant consequential amendments.	There appears to have been no consultation with any private land holders/occupiers or directly affected farming groups in relation to the location of inanga spawning habitats. Until such time as this consultation is done there should be no insertion of provisions relating to them. Those directly affected parties need to be consulted to assist determination of the appropriate location of these sites and the provisions relating to them. The Section 32 Report has not listed any farming entities that have been consulted as part of this plan change process.
Drainage Water	5-5 to 5-6	Rules 5.75 – 5.80 inclusive	Oppose	Delete the proposed amendments to the rules, as based on the new definition of 'drainage water'. Make any relevant consequential amendments.	Definition, as proposed to be amended by Plan Change 4, determines that drains are for the purpose of draining water and contaminants from rural and agricultural land. It is worded in such a way that it assumes that all agricultural or rural water is contaminated and attributes all 'blame' to rural entities. There is no understanding provided in the definition that drains service an entire catchment which includes urban land in much of the region – for an example, drains that are located in the Selwyn District transport water from townships such as Leeston, Doyleston, Dunsandel and also help to maintain the entire water table throughout the district. The new proposed definition makes an implicit assumption that the adjacent farmer is responsible for contaminants when this is not the case.

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					<p>It is also important to note that for the most part drains are dry until there is a significant rain event or an extremely long period of high rainfall during winter months. In such cases the drains may only flow for two or three days at the most and are free of sediment or contaminant.</p> <p>There appears to be no substantial supporting evidence provided in the Section 32 report or other documentation that supports this change. There also appears to have been no consultation with private parties that may be affected by this.</p>
Take and Use Surface Water	5-18	Rule 5.127	Oppose	<p>Delete matter of discretion #13 which states:</p> <p>‘Where the water is to be used for irrigation, the preparation and implementation of a Farm Environment Plan in accordance with Schedule 7 to manage the effects arising from the use of the water’.</p> <p>Make any relevant consequential amendments.</p>	<p>Nutrient Management rules are contained within various sections of the Land and Water Plan and various other sub-regional plans. Those provisions successfully deal with issues of nutrient management on both irrigated and non-irrigated land. There is no need for this to be a further assessment under consents for the use of ground or surface water. It will add to the cost of implementation and consent processing when it is already covered by other existing provisions and regulated through them; especially when applications for minor consent condition changes are made or applied for.</p>
Take and Use Groundwater	5-18	Rule 2.128	Oppose	<p>Delete matter of discretion #11 which states:</p> <p>‘Where the water is to be</p>	<p>Nutrient Management rules are contained within various sections of the Land and Water Plan and various other sub-regional plans. Those provisions successfully deal with issues of nutrient management on both</p>

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				used for irrigation, the preparation and implementation of a Farm Environment Plan in accordance with Schedule 7 to manage the effects arising from the use of the water'. Make any relevant consequential amendments.	irrigated and non-irrigated land. There is no need for this to be a further assessment under consents for the use of ground or surface water. It will add to the cost of implementation and consent processing when it is already covered by other existing provisions and regulated through them; especially when minor consent condition changes are made or applied for.
Structures	5-20	Rule 5.136	Oppose	Delete proposed amendment to point 1 of this rule.	There appears to have been no consultation with any private land holders/occupiers or directly affected farming groups in relation to the location of inanga spawning habitats. Until such time as this consultation is done there should be no insertion of provisions relating to them. Those directly affected parties need to be consulted to assist determination of the appropriate location of these sites and the provisions relating to them. The Section 32 Report has not listed any farming entities that have been consulted as part of this plan change process.
	5-21	Rule 5.137	Oppose	Delete proposed amendment to point 4 of this rule.	Reason as stated above.
	5-22	Rule 5.138	Oppose	Delete proposed amendment to point 2 of this rule.	Reason as stated above.
	5-22	Rule 5.139	Oppose	Delete proposed amendment to point 4 of	Reason as stated above.

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	5-22	Rule 5.140	Oppose	<p>this rule.</p> <p>Delete proposed amendment to point 1 of this rule.</p>	Reason as stated above.
	5-23	Rule 5.141	Oppose	<p>Delete proposed amendment to point 2 of this rule.</p> <p>Make any relevant consequential amendments to all of the rules listed in this subsection.</p>	Reason as stated above.
Gravel from Lake and Riverbeds	5-26	Rule 5.148	Oppose	<p>Delete proposed amendment to point 9 of rule.</p> <p>Make any relevant consequential amendments.</p>	There appears to have been no consultation with any private land holders/occupiers or directly affected stakeholders in relation to the location of inanga spawning habitats. Until such time as this consultation is done there should be no insertion of provision relating to them. Those directly affected parties need to be consulted to assist determination of the appropriate location of these sites and the provisions relating to them. The Section 32 Report has not listed any farming or commercial entities that have been consulted as part of this plan change process.
	5-26	Rule 5.151	Oppose	<p>Delete proposed amendment to point 1 of rule.</p> <p>Make any relevant consequential amendments.</p>	There appears to have been no consultation with any private land holders/occupiers or directly affected stakeholders in relation to the location of inanga spawning habitats. Until such time as this consultation is done there should be no insertion of provision relating to them. Those directly affected parties need to be consulted to assist determination of the appropriate location of these sites and the provisions relating to them. The Section 32 Report has not listed any farming

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	5.26 and 27	Rule 5.152	Oppose	<p>Delete proposed amendment to point 2 of rule.</p> <p>Make any relevant consequential amendments.</p>	<p>or commercial entities that have been consulted as part of this plan change process.</p> <p>There appears to have been no consultation with any private land holders/occupiers or directly affected stakeholders in relation to the location of inanga spawning habitats. Until such time as this consultation is done there should be no insertion of provision relating to them. Those directly affected parties need to be consulted to assist determination of the appropriate location of these sites and the provisions relating to them. The Section 32 Report has not listed any farming or commercial entities that have been consulted as part of this plan change process.</p>
Vegetation in Lake and Riverbeds	5-28	Rule 5.163	Oppose	<p>Delete proposed amendment to point 7 of this rule where it states:</p> <p><u>'Vegetation clearance does not occur in an inanga or salmon spawning site listed in Schedule 17, or undertaken in any inanga spawning habitat during the period of 1 January to 1 June inclusive; and'</u></p> <p>Make any relevant consequential amendments.</p>	<p>The ESAI opposes the proposed amendment to this part of the rule because of the date of 5 September 2015 which has been added to the definition in reference to cultivation and harvesting of crop. The relevance of the date is surplus to requirements as the cultivation and harvesting on land that might be created as productive land after 5 September 2015 would be minimal and potentially contentious when considering what is 'productive land'. It is difficult to determine why productive land created after 5 September 2015 might require specific regulation over and above other land. It is assumed that the date only relates to the date that Plan Change 4 was notified.</p> <p>Also, there appears to have been no consultation with any private land holders/occupiers or directly affected stakeholders in relation to the location of inanga spawning habitats. Until such time as this consultation is done there should be no insertion of provisions</p>

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					<p>relating to them, especially where there might be restriction on crucial stakeholder activities such as crop planting and harvesting etc. Those directly affected parties need to be consulted to assist determination of the appropriate location of these sites and the provisions relating to them. The Section 32 Report has not listed any farming or commercial entities that have been consulted as part of this plan change process.</p> <p>It is also noted that if any of the spawning sites on the maps are Classified Council Drains then there is major conflict as the dates proposed to be clearance free are when cleaning should be done.</p>
Earthworks and Vegetation Clearance in Riparian Areas	5-29	Rule 5.167	Oppose	<p>Delete amendments to this rule where the intent of the rule is now to include cultivation and harvesting of crops as a result of the insertion of the 5 September 2015 date in the definition of vegetation clearance; and Delete amendment to point 4 of this rule.</p> <p>Make any relevant consequential amendments.</p>	<p>The ESAI opposes the proposed amendment to this part of the rule because of the date of 5 September 2015 which has been added to the definition in reference to cultivation and harvesting of crop. The relevance of the date is surplus to requirements as the cultivation and harvesting on land that might be created as productive land after 5 September 2015 would be minimal it is difficult to determine why productive land created after 5 September 2015 might require specific regulation over and above other land. It is assumed that the date only relates to the date that Plan Change 4 was notified.</p> <p>Also, there appears to have been no consultation with any private land holders/occupiers or directly affected stakeholders in relation to the location of inanga spawning habitats. Until such time as this consultation is done there should be no insertion of provision relating to them, especially where there might be restriction on crucial stakeholder activities such as crop planting and harvesting etc. Those directly affected</p>

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	5-30 and 31	Rule 5.168	Oppose	<p>Delete amendment to point 3 of this rule.</p> <p>Make any relevant consequential amendments.</p>	<p>parties need to be consulted to assist determination of the appropriate location of these sites and the provisions relating to them. The Section 32 Report has not listed any farming or commercial entities that have been consulted as part of this plan change process. It is also noted that if any of the spawning sites on the maps are Classified Council Drains then there is major conflict as the dates proposed to be clearance free are when cleaning should be done.</p> <p>There appears to have been no consultation with any private land holders/occupiers or directly affected stakeholders in relation to the location of inanga spawning habitats. Until such time as this consultation is done there should be no insertion of provision relating to them, especially where there might be restriction on crucial stakeholder activities such as crop planting and harvesting etc. Those directly affected parties need to be consulted to assist determination of the appropriate location of these sites and the provisions relating to them. The Section 32 Report has not listed any farming or commercial entities that have been consulted as part of this plan change process.</p> <p>It is also noted that if any of the spawning sites on the maps are Classified Council Drains then there is major conflict as the dates proposed to be clearance free are when cleaning should be done.</p>
	5-31	Rule 5.169	Oppose	<p>Delete amendment to point 3 of this rule or amend to read as:</p> <p>'3. The actual and potential</p>	<p>Artificial watercourses are predominantly dry and there would not be any effect on them unless they were actually flowing at the time the workings were undertaken. The wording of this part of the rule needs to reflect this.</p>

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	5-33	Rule 5.171	Oppose	<p>adverse environmental effects on the quality of water in rivers, lakes <u>or</u> flowing artificial watercourses <u>or</u>, wetlands <u>or the sea</u>; and'</p> <p>Make any relevant consequential amendments.</p> <p>Delete amendment to point 2 of this rule or amend to read as:</p> <p>'2. The actual and potential adverse environmental effects on the quality of water in rivers, lakes <u>or</u> flowing artificial watercourses <u>or</u>, wetlands <u>or the sea</u>; and'</p> <p>Make any relevant consequential amendments.</p>	Artificial watercourses are predominantly dry and there would not be any effect on them unless they were actually flowing at the time the workings were undertaken. The wording of this part of the rule needs to reflect this.
Schedules					
Schedule 17 – Salmon and Inanga Spawning Sites	16-8 to 13	Inanga Spawning Sites part of Schedule 17.	Oppose	Delete this part of Schedule 17 until such time as the appropriate consultation has been undertaken with affected stakeholders and necessary amendments	There appears to have been no consultation with any private land holders/occupiers or directly affected stakeholders in relation to the location of inanga spawning sites/habitats. Until such time as this consultation is done there should be no insertion of provisions relating to them, especially where there

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				made. Specifically remove two references to sites located on Waikekewai Stream And make any relevant consequential amendments.	might be restriction on crucial stakeholder activities such as crop planting and harvesting etc. Those directly affected parties need to be consulted to assist determination of the appropriate location of these sites and the provisions relating to them. The Section 32 Report has not listed any farming or commercial entities that have been consulted as part of this plan change process. It is also noted that if any of the spawning sites on the maps are Classified Council Drains then there is major conflict as the dates proposed to be clearance free are when cleaning should be done.
Maps					
Maps B-066 and B-076 and all maps.		Area of map amended to include inanga spawning areas, sites and habitats	Oppose	Delete proposed inserted inanga spawning habitat areas/sites to maps and make any consequential amendments.	There appears to have been no consultation with any private land holders/occupiers or directly affected stakeholders in relation to the location of inanga spawning sites/habitats. Until such time as this consultation is done there should be no insertion of provisions relating to them, especially where there might be restriction on crucial stakeholder activities such as crop planting and harvesting etc. Those directly affected parties need to be consulted to assist determination of the appropriate location of these sites and the provisions relating to them. The Section 32 Report has not listed any farming or commercial entities that have been consulted as part of this plan change process.