

**From:** [Georgina Hamilton](#)  
**To:** [Mailroom Mailbox](#)  
**Subject:** Plan Change 4 to the Canterbury Land and Water Regional Plan - submission by Erralyn Farm Limited  
**Date:** Monday, 12 October 2015 4:19:30 p.m.  
**Attachments:** [tplogod6f416](#)  
[GCH-004021-25-7-1 Erralyn Farm Limited submission on PC4 to the CLWRP \(dated 12 October 2015\).pdf](#)

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Dear Sir/Madam

We act for Erralyn Farm Limited.

We **enclose** for filing a submission by our client on proposed Plan Change 4 to the partially operative Canterbury Land and Water Regional Plan.

Kind regards,

**Georgina Hamilton** | Associate



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and Partners**

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**SUBMISSION ON PLAN CHANGE 4 (OMNIBUS) TO THE PARTIALLY OPERATIVE CANTERBURY  
LAND AND WATER REGIONAL PLAN**

*Clause 6 First Schedule, Resource Management Act 1991*

**TO:** Environment Canterbury  
Freepost 1201  
Plan Change 4 to the Canterbury Land and Water Regional Plan  
PO Box 345  
Christchurch 8140  
  
By email: mailroom@ecan.govt.nz

**Name of Submitter:**

1 Erralyn Farm Limited (**Submitter**)  
  
Address: c/- Tavendale and Partners Limited  
PO Box 324  
Ashburton 7740  
  
Contact: Georgina Hamilton  
  
Phone: 021 221 0723  
  
Email: georgina.hamilton@tp.co.nz

**Trade Competition Statement:**

2 The Submitter could not gain an advantage in trade competition through this submission.

**Proposal this submission is on:**

3 This submission is on proposed Plan Change 4 to the partially Operative Canterbury Land and Water Regional Plan (**Plan Change**).

**The specific provisions of the Plan Change that this submission relates to:**

4 The specific provisions of Plan Change that this submission relates to are:  
  
4.1 Proposed new Policy 4.85A (Activities in Beds of Lakes and Rivers);  
4.2 Proposed new Rule 5.68A (Stock Exclusion);  
4.3 Proposed amendments to Rule 5.163 (Vegetation Clearance in Lake and Riverbeds);  
4.4 Proposed amendments to Rule 5.167 (Earthworks and Vegetation Clearance in Riparian Areas); and

4.5 Proposed amendments to the definition of “earthworks”.

## **Submission**

### ***Introduction***

- 5 The Submitter owns approximately 270 hectares of farmland located on the southern bank of the Rakaia River 7km east of Rakaia (**Property**). The Property is currently run as a dairy unit.
- 6 The Property has the benefit of several regional resource consents, one of which authorises the use of the bed of the Rakaia River for various farm-related and river protection activities.
- 7 The Submitter is therefore directly affected by, and has a specific interest in, the aspects of the Plan Change referred to above at paragraph 4.

### ***Submitter’s Overall Position***

- 8 Overall, the Submitter **opposes** the aspects of the Proposal referred to above at paragraph 4 as it considers they:
- 8.1 would not promote the sustainable management of the Canterbury Region’s resources;
- 8.2 would not enable the social and economic well-being of the rural communities of the Canterbury Region;
- 8.3 would not enable the efficient use and development of the Submitter’s assets and the resources which those assets are dependent on;
- 8.4 do not represent the most appropriate plan provisions in terms of section 32 of the Resource Management Act 1991 (**RMA**); and
- 8.5 would otherwise be contrary to the RMA, particularly Part 2.

### ***Specific Concerns***

- 9 Without limiting the generality of the foregoing, the Submitter’s specific concerns together with a summary of the decisions it seeks from Environment Canterbury are set out in **Annexure A** attached to this submission.

### **Decisions Sought by Submitter:**

- 10 The Submitter seeks the following decisions from Environment Canterbury:
- 10.1 that the decisions sought in **Annexure A** to this submission be accepted; and
- 10.2 such alternative and/or consequential amendments required to address the concerns raised in this submission.

**Wish to be Heard:**

- 11 The Submitter wishes to be heard in support of this submission.
- 12 The Submitter would be prepared to consider presenting a joint case with others making similar submissions at the hearing.



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**Erralyn Farm Limited**

By its solicitors and authorised agents  
Tavendale and Partners Limited: G C Hamilton

Date: 12 October 2015

**ANNEXURE A – DECISIONS SOUGHT BY ERRALYN FARM LIMITED**

Specific Provision of Plan Change that Submission Relates To		Submission		Decisions Sought
Section & Page Number	Sub-section/Point	Oppose/support	Reasons	
4-7	New Policy 4.85A – Activities in Beds of Lakes and Rivers	Oppose	The proposed approach adopted by this policy (and the related rules) would unreasonably restrict the use of freehold land (including land that has formed through accretion), and would have potentially significant implications for existing investment.	Proposed Policy 4.85A be deleted.
5-4	New Rule 5.68A (Stock Exclusion)	Oppose	<p>The Section 32 Report for the Plan Change indicates that the intention of proposed Rule 5.68A is to provide certainty regarding the outer limits of the bed of a braided river for the purpose of the stock exclusion rules.<sup>1</sup></p> <p>Proposed Rule 5.68A fails to achieve this outcome. The wording of proposed clause (2) of Rule 5.68A(1), in particular, is inherently uncertain and is likely to pose significant difficulties in terms of plan implementation and enforcement.</p> <p>The Regional Council has failed to carry out its statutory obligations under section 32 of the RMA as no analysis of proposed Rule 5.68A against the mandatory section 32 RMA criteria has been carried out. In particular there is no comparative analysis of the proposed Rule against the status quo, in terms of the benefits and costs, and matters of efficiency and effectiveness.</p>	Proposed Rule 5.68A be deleted.

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<sup>1</sup> Page 14.

			<p>There proposed 50m setback in clause (2) of Rule 5.68A(1) is not supported by a robust technical (or other) assessment. Nor is there any analysis or consideration of the potentially significant consequences of the proposed Rule, including (but not limited to) effects on the legitimate use of freehold land (including land that has formed through accretion), increased fire risk, and the implications for weed and pest management.</p> <p>The definition of “bed” under sub-clause (2) of Rule 5.68A(1) would apply where farmland lies within the flood protection vegetation boundaries shown on the maps forming part of the CRC Flood Protection and Drainage Bylaw 2013, but where there is no “...<i>flood protection vegetation owned or controlled by the CRC for flood protection purposes</i>”, or where flood protection vegetation exists, but is owned or controlled by the landowner. This would unreasonably restrict the use of freehold land (including land that has formed through accretion) for farming stock and would have significant implications for existing investment.</p>	
5-28	Proposed Rule 5.163(9) (Vegetation Clearance in Lakes and Riverbeds)	Oppose	<p>Despite the proposed amendments to the definition of “vegetation clearance”, it appears from the Section 32 Report that the intention of Rule 5.163(9) is to require a resource consent to be obtained for the removal of any existing vegetation from the bed of any of the braided rivers specified in the Rule. Due to the way in which the term “vegetation” is defined in the Canterbury Land and Water Regional Plan (<b>CLWRP</b>), this would appear to capture the removal of existing crop or pasture (e.g. through harvesting or new cultivation).</p> <p>This potential outcome of proposed Rule 5.163(9) would unreasonably restrict the use of freehold land (including land that has formed through accretion) within the beds of the</p>	Proposed Rule 5.163(9) be deleted.

			braided rivers specified in the Rule, particularly where a section 13 RMA resource consent is held and authorises the use of the river bed for irrigators, and/or disturbance and earthworks associated with cultivation and harvesting. The implications of such restrictions for existing investment could be significant.	
5-29 to 5-30	Proposed Rule 5.167(6) (Vegetation Clearance in Riparian Areas)	Oppose	<p>Despite the proposed amendments to the definition of “vegetation clearance”, it appears from the Section 32 Report that the intention of Rule 5.167(6) is for a resource consent to be obtained for the removal of any existing vegetation from the riparian margin of any of the braided rivers specified in the Rule. Due to the way in which the term “vegetation” is defined in the CLWRP this would appear to capture the removal of existing crop or pasture (e.g. through harvesting or cultivation).</p> <p>This potential outcome of proposed Rule 5.167(6) would unreasonably restrict the use of freehold land within riparian margins, and the implications for existing investment could be significant.</p>	Proposed Rule 5.167(6) be deleted.
5-30 to 5-31	Proposed Rule 5.168(5) (Earthworks in Riparian Areas)	Oppose	<p>Despite the proposed amendments to the definition of “earthworks”, it appears from the Section 32 Report that the intention of Rule 5.168(5) is for a resource consent to be obtained where earthworks results in the removal of any existing vegetation within the riparian margin of any of the braided rivers specified in the Rule. Due to the way in which the term “vegetation” is defined in the CLWRP this would appear to capture the removal of existing crop and pasture (e.g. through cultivation of soil).</p> <p>Proposed Rule 5.168(5) would also appear to have the effect of precluding a landowner undertaking emergency river protection planting or works in riparian margins.</p>	Proposed Rule 5.168(5) be deleted.

			These potential outcomes of proposed Rule 5.168(5) would unreasonably restrict the use of freehold land within the riparian margins of the braided rivers specified in the Rule and the implications for existing investment could be significant.	
2-3	Proposed Amendment to Definition of "Earthworks"	Oppose	The proposed amendment to the definition of the term "Earthworks" would appear to have the unintended consequence of potentially requiring a resource consent to be obtained for any new cultivation of soil on production land (i.e. after 5 September 2015) under the rules in the CLWRP for Earthworks over Aquifers (Rules 5.176 to 5.178).	That the proposed amendments to the definition of "earthworks" be deleted (i.e. the definition of "earthworks" be retained in its operative form).