

From: [Rennie, Hamish](#)
To: [Mailroom Mailbox](#)
Subject: Amendment to H. Rennie Submission on Plan Change 4 of the Land and Water Plan
Date: Monday, 19 October 2015 6:35:37 p.m.

With respect to my submission of 11 October 2015 on Plan Change 4 of the Land and Water Regional plan.

Where I made the submission statement:

"5.111.3 opposed in part -Relief sought: delete the word 'reasonable'. Reason: subordinate legislation cannot restrict something that is explicitly permitted by its superior legislation, in this case the RMA."

I wish to withdraw this, and only this part of my submission.

Hamish G. Rennie, Lot 2, 50 Selwyn Lake Road, Irwell, RD3, Leeston. Ph 021643344



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From: [Rennie, Hamish](#)
To: [Mailroom Mailbox](#)
Cc: [Tami Woods](#)
Subject: H Rennie Submission on Plan Change 4 to the LWRP
Date: Monday, 12 October 2015 11:00:23 a.m.
Attachments: [H Rennie submission on PC4.docx](#)

Please find attached my submission on Plan Change 4 to the LWRP

Regards

Hamish

Lot 2, 50 Selwyn Lake Road
Irwell
RD3
Leeston

Ph 02164334



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Lot 2, 50 Selwyn Lake Rd
Irwell
RD 3
Leeston

11 October 2015

Phone: 021643344

Email: Hamish.rennie@lincoln.ac.nz

Submission on Plan Change 4 (formerly variation 4) to the Canterbury Regional Council's Land and Water Regional Plan

My submission is set out below. I wish to be heard in support of my submission.

Hamish Rennie

Submission

The definition of 'bore' (opposed in part) captures piezometers and lysimeters. This may be unintentional, but regardless of intention, we do not think it should cover piezometers, and probably not lysimeters, as the requirements for a bore would add considerable cost and render impractical the purpose of both these monitoring and investigation mechanisms.

4.31(b) opposed - relief sought: delete the words 'and other sensitive water body areas and the water body bed and banks closely adjacent to these areas'. Reason: there is no clarity as to what 'sensitive water body areas' refers and retention of this phrase may lead to unintended consequences.

4.31(ba) and inclusion of areas marked "inanga spawning habitat" in planning maps opposed - relief sought: delete this policy and delete all areas identified as 'inanga spawning habitat' from the planning maps with consequential amendments deleting all mention of 'inanga spawning habitat' in all other rules and policies. Reasons: The scientific basis for determining inanga spawning habitat is fatally flawed; the method used for mapping inanga spawning habitat is fatally flawed; the assessment of the economic effects of the proposal (required under s.32) has not been done and other aspects of the s.32 analysis are contradictory; excluding all stock from such areas is not needed to meet the purpose of the RMA and may create confusion with policy 4.31(c); the time period for stock exclusion is inconsistent with policy 4.86B in that it equates the effects of inanga compatible stock grazing with the adverse effects of physical, chemical or mechanical vegetation clearance and earthworks.

5.68A supported in part, opposed in part - Relief sought: delete the words "of Rules 5.68 to 5.71" from: "For the purposes of Rules 5.68 to 5.71 of this Plan". Reasons –the current definition of 'bed' in the Plan is ultra vires, unenforceable and nonsensical, but there is no mechanism to delete it in its entirety through this plan change. The relief sought here is within the scope of Plan Change 4 and is closer to the meaning given to 'bed' of a river in the RMA.

5.68A.1(1) supported in part- Relief sought: the word 'outer' be replaced with the word 'inner' (i.e. the river side of the vegetation). Reasons: this better reflects the true location of the bed of a river as by definition flood protection vegetation is placed on the banks (to protect them from lateral erosion of the bank) not in the bed, of the river. The change would enable water averse stock (eg sheep) to drink from the river while standing on the bank and having no more than de minimis adverse effects on the environment (much as they do now on our property).

5.68A.1 supported in part - relief sought: insert new 5.68A.1(1a) "where flood protection vegetation owned or controlled by the CRC is discontinuous, the edge of the river bed shall be determined by projecting a connecting continuation of the line of vegetation as if it were to continue to lie adjacent to the river bed in the manner it had been up to the point of discontinuation; or".... Reasons: there are many places where the line of vegetation is discontinuous, but has followed a clear method of defining the river bank that is able to be readily extrapolated to show where the river bed lies, however, under the current definition the rule would mean a number of places where there would be meaningless and inappropriate short stretches of 50 metre set backs from the clear line of the river bed.

5.111 opposed in part -relief sought: in 5.111.1 after the words "The total take and use per property" insert the words "in addition to that provided for in s14(3)(b) of the Resource Management Act 1991"... Reason: This is to avoid any unintended consequences of the current phrasing and give clarity with respect to 'Interpretation' note 2 on the same page.

5.111.3 opposed in part -Relief sought: delete the word 'reasonable'. Reason: subordinate legislation cannot restrict something that is explicitly permitted by its superior legislation, in this case the RMA.

Inclusion of the Code of Practice for Defences Against Water and Drainage Schemes (CPDAWDS) – opposed throughout. I oppose the inclusion of this Code by reference or by any other means. The relief sought is that neither the code nor its content be referenced or given any weight in any regional or district plan prepared under the RMA.

Reasons for this include that:

First, the Code draws on a definition in the regional land and water plan for the bed of a river or lake that is incapable of legal implementation and lies outside the scope of what a plan may do. The definition of the bed of a river and of a lake are clearly set out in the RMA and it is beyond the functions powers and duties of the regional council plans to alter or extend those statutory definitions. The diagrams and words to the effect that the bed of a river extends to the outer toe of a stopbank in situations where there is a clear existing bank of a river well inside the stop bank is such an unlawful extension. I note that the Flood Protection and Drainage Bylaw 2013 definition on which the LWRP is drawing through reference is also drawn on by the CPDAWDS indirectly through the LWRP use of the Bylaw. That Bylaw was made under the Local Government Act to replace Bylaws that had been prepared under and for the purposes of Soil Conservation and Rivers Control Act 1941, which are not the same as the purpose of the RMA and the bed of a river is not defined in either the LGA or the SCRCA. It is entirely outside the scope of what a plan can do under the RMA to adopt a definition used for the purposes of other legislation when the term is already specifically defined in the RMA.

The banks of the river are those that naturally define the river margin. An artificial stop bank is based on modelling of particular flood events and the location height and other design features of a particular stop bank is dependent on particular preferences and trade-offs at the time the decision was made to build the stop bank. Consequently a stop bank may be extremely high and built very

close to a river, perhaps with high maintenance costs, or it may be low and at some considerable distance from a river in order to create a ponding area to distribute floodwaters over a wider area for the same design flood. Rather than follow any biophysical characteristics associated with the concept of a river, or river bed, a stop bank may be built in a straight line to reduce costs of the flood protection scheme. If the definition used in the Bylaw was to become the definition used in the plans there is a complete lack of certainty as to where the river bed is as it is dependent on where a stop bank might be built, not on the RMA definition of the bed. For our part of the river, the land extending to the natural bank of the Selwyn River was production, cultivated land prior to the construction of the stop banks. At the time of the stop banks being built the landowner (my father) opposed them, arguing that he could live with floods and they refreshed the soil, but eventually agreed to having them on his land and well back from the bank of the river in order to allow a ponding area that would provide greater protection to the Selwyn Huts. The stop bank was built in a straight line from one prominent bend to just above the Upper Selwyn Huts, entrapping more than 5ha of production land between it and the true river bank. At the time my father agreed to this it was on the basis that he would still be able to use the land between the stop bank and the river for production, and we have continued to graze it with stock ever since. I note that at the time my father had 'ad medium filum' rights and that our neighbours on the other side of the river still have these. Ours were relinquished and our land boundary resurveyed to the edge of the river bed when my brother subdivided the farm fifteen years ago. We have paid rates to council for that land between the natural bank of the river and the stop bank and in charging us those rates council has acknowledged that this is not riverbed and is our land.

Second, we receive flood warnings when the river looks to be rising above levels that would exceed the natural river bank. By implication this recognises that events that overtop the natural banks of the river are flood events that are considered in excess of the river's fullest annual flow.

Third, the redrawing of the bed of a river attempted by the LWRP definition adopted by the Code would create a large number of unintended consequences and is inconsistent with the provisions of other plans and creates contradictions with provisions in PC4 itself.