

Tamina Roberts

From: Iaeen Cranwell <Iaeen.Cranwell@ngaitahu.iwi.nz>
Sent: Friday, 6 November 2015 4:26 p.m.
To: Mailroom Mailbox
Cc: Wairewa Rūnanga Inc Soc
Subject: Plan Change 6 Submission
Attachments: Plan Change 6 Submission.pdf

Kia ora,

Please find attached our submission for Plan Change 6.

Nāhaku noa
Nā
Iaeen

Iaeen Cranwell | Natural Resources Portfolio | Wairewa Rūnanga

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Resource Management (Form, Fees and Procedure) Regulations - Schedules 2003

Form 5

Clause 6 of the First Schedule, Resource Management Act 1991

Submission on a publicly notified proposal for a plan

To: Environment Canterbury
PO Box 345
Christchurch

Name of Submitter: Wairewa Rūnanga Inc and Te Rūnanga o Ngāi Tahu

This is a submission on: Plan Change 6 to the Canterbury Land and Water Regional Plan

The submitters cannot gain an advantage in trade competition through this submission.

Introduction

1. Plan Change 6 applies to the Te Roto o Wairewa/Lake Forsyth catchment. This catchment is within the takiwā of Kāti Irakehu and Kāti Makō, who are represented by Wairewa Rūnanga. Wairewa Rūnanga is one of the papatipu rūnanga of Ngāi Tahu.
2. Ngāi Tahu is made up of whānau and hapu groups who through whakapapa and mana whenua relationships have become established in distinct areas of the Ngāi Tahu takiwā. These groups are recognized in the Te Rūnanga o Ngāi Tahu Act 1996 (TRoNT Act) as papatipu rūnanga within those takiwā areas.
3. The contemporary structure of Ngāi Tahu is set out in the TRoNT Act. Section 6 identifies Te Rūnanga of Ngāi Tahu (Te Rūnanga) as the iwi authority representing Ngāi Tahu whānui. Ngāi Tahu whānui is identified as the collection of individuals who descend from the primary hapu of Waitaha, Ngāti Mamoe and Ngāi Tahu and are descendants of persons who were members of Ngāi Tahu living in 1848 and listed in the minute book of the 1929 Ngāi Tahu Census Committee.
5. Section 15(2) of the TRoNT Act provides that where any act requires consultation with iwi this shall be held with Te Rūnanga in the takiwā of Ngāi Tahu whānui. Section 15(3) of the TRoNT Act requires Te Rūnanga to consult with papatipu rūnanga.

6. Te Rūnanga encourages the rights of papatipu rūnanga to make their own submissions to councils and other decision-making bodies and will take into account the views of papatipu rūnanga when determining its position.
7. This joint submission from Wairewa Rūnanga and Te Rūnanga (hereafter referred jointly as Ngāi Tahu) is the submission of the iwi authority on Plan Change 6.

Ngāi Tahu Position

6. Wairewa Rūnanga have a representative on the Banks Peninsula Zone Committee which produced a Zone Implementation Programme (ZIP) and an Addendum to that ZIP (ZIP Addendum) identifying key issues, outcomes and approaches to managing fresh water in this catchment.
7. The Ngāi Tahu submission supports the outcomes sought in the ZIP Addendum and supports Plan Change 6 where it reflects those outcomes, meets the statutory requirements for freshwater plans under the Resource Management Act 1991 (RMA), and supports the cultural values of the catchment.
8. Where amendments and additions to Plan Change 6 are requested in this submission, these changes are required in our view to better achieve the statutory requirements of the RMA, the recommendations in the ZIP Addendum, or the cultural values of the catchment.

Submission – Plan Change 6

1. The specific provisions our submission relates to are: all of Plan Change 6.

2. Our submission is: We support all the provisions in Plan Change 6 as notified, except where we have asked for specific changes in Table One below.

3. Our reasons are:

3.1 Overall we consider Plan Change 6 reflects the key issues and aspirations of the ZIP addendum. We agree that the major issues for managing freshwater in this catchment are:

- (i) Recognition of the cultural significance of Te Roto o Wairewa/Lake Forsyth and the need to improve its cultural health, particularly in relation to water quality;
- (ii) The management of sediment and phosphorus deposits into streams and the lake and maintaining current low nitrate concentrations in freshwater bodies; and

- (iii) Actions to restore the health of the lake.

3.2 We seek changes and additions to Plan Change 6 in relation to the following matters:

- (i) Greater recognition of the cultural significance of Te Roto o Wairewa/Lake Forsyth;
- (ii) A greater focus on outcomes rather than methods based policies; and
- (iii) Clarity in some rule drafting.

3.3 We believe that the changes we seek better:

- achieve the purpose of the RMA and give effect to the duties under s32;
- give effect to the NPS Freshwater;
- take into account the relevant iwi management plans;
- achieve the objectives of the Land and Water Regional Plan (LWRP); or
- reflect the outcomes sought in the ZIP Addendum.

4. We seek the following decisions from the council:

- Retain the provisions of Plan Change 6 as notified except for the changes listed in Table One.
- Amend Plan Change 6 to incorporate the changes listed in Table One and any consequential amendments necessary to give effect to these changes.

5. We do wish to be heard in support of our submission.

6. We do not wish to make a joint case with any other party.

Iaeen Cranwell

Natural Resources

Wairewa Rūnanga Inc

(Being persons authorised to sign this submission on behalf of the submitters)

James Caygill

General Manager Tribal Interests

Te Rūnanga o Ngāi Tahu

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Table One – Amendments Requested to Plan Change 6

Provision	Decision Requested	Any additional reasons
Introduction, p.10-1	Be consistent with naming of catchment. It should state Te Roto o Wairewa/Lake Forsyth throughout the plan	Acknowledge the use of both the Māori and English name of the lake, and catchment
Introduction, para 5, p.10-2	Amend the first line by citing the reference used to determine that Te Roto o Wairewa/Lake Forsyth as a nationally and regionally significant wetland.	The paragraph states that the lake is a 'nationally and regionally significant wetland.' This is agreed but it would be strengthened if there was some reference to support that classification.
Introduction, para 9 p.10-3	Add a new sentence which reads: <i>Nitrogen concentrations in freshwater and in Te Roto o Wairewa/Lake Forsyth are currently low and these low concentrations need to be maintained to avoid exacerbating algal blooms.</i>	Paragraph 9 talks about water quality issues in Te Roto o Wairewa/Lake Forsyth. There is no mention of nitrogen concentrations as they are currently low. However they need to remain low to avoid a synergistic effect on algal blooms which may occur from increasing N concentrations on top of high natural P conditions.
Section 10.1, p.10-3	Delete this section or insert the other regional plans that apply to the Banks Peninsula, including the regional coastal plan.	This statement is a bit misleading; while there is only one regional plan dealing with freshwater there are other regional plans that apply to Banks Peninsula.

Provision	Decision Requested	Any additional reasons
10.4 Policies, Note, p.10-4	Delete this note and replace with the following: <i>'These policies apply in the Te Roto o Wairewa/Lake Forsyth catchment in addition to the region-wide policies in section 4 of this plan.'</i>	The current wording contradicts itself.
10.4, Policies, new policy	Add a new policy that reads: <i>Recognise the cultural significance of Te Roto o Wairewa/Lake Forsyth to Ngāi Tahu and its status as a customary lake and area of statutory acknowledgement under the Ngāi Tahu Claims Settlement Act 1998; and promote the restoration of the lake and its margins for customary uses.</i>	The cultural significance of Te Roto o Wairewa/Lake Forsyth is described in the introduction to the plan change. However there is no corresponding policy which recognizes and provides for these values.
Policy 10.4.1, p.10-4	Delete policies 10.4.1 and 10.4.2 and replace with a policy that reads: <i>Improve water quality in Te Roto o Wairewa/Lake Forsyth to achieve the targets set out in Table 10(e) and 20(f) by 2030 by:</i> <i>(a) Reducing the risk of bank erosion or collapse and associated loss or discharge of sediment into water;</i> <i>(b) Avoiding the direct discharge of animal or human effluent into water;</i>	Policy 10.4. is a process policy - that is it is listing the activities that the plan will control. Rewriting the policy to focus on effects to be avoided remedied or mitigated makes it more useful, as the policy then applies to all activities which have those effects. Recognition should be included of the need to maintain current low levels of nitrogen concentrations in freshwater to assist in reducing the instances of algal bloom in the lake and to maintain water quality in rivers and tributaries.

	<p>(c) <i>Encouraging the planting of indigenous vegetation species in riparian margins where this activity does not adversely affect bank stabilization works;</i></p> <p>(d) <i>Encouraging people to minimize their wastewater discharges and the phosphorous content in their wastewater;</i></p> <p>(e) <i>Managing on-site effluent treatment and disposal systems in areas prone to inundation; and</i></p> <p>(f) <i>Maintaining current low levels of nitrogen concentrations in freshwater.</i></p>	<p>Policy 10.4.1(f) is not achievable. Rather the policy should be managing the risk of inundation in flood-prone areas. These flood prone areas do not seem to be defined and there does not seem to be any rule to implement the policy.</p> <p>There is no direct link between the water quality outcome set in Policy 10.4.2 and the actions required to achieve them.</p>
<p>Policy 10.4.3, p.10-4</p>	<p>Reword Policy 10.4.3 to read:</p> <p><i>Improve the flood carrying capacity of the Ōkana, Ōkuti and Takiritawai rivers and their tributaries and avoid activities in the beds or margins of these rivers or their tributaries which may significantly reduce their flood carrying capacity.</i></p>	<p>Stock may need to be excluded from the river for water quality issues but the link between stock exclusion and flood carrying capacity of the river is unclear. There may be other activities which are reducing flood carrying capacity of the river so the policy should focus on the effects.</p>
<p>Policy 10.4.4, p.10-4-10-5</p>	<p>Amend Policy 10.4.4 to read:</p> <p><i>'Provide for Ngāi Tahu cultural values and customary uses of Te Roto o Wairewa/Lake Forsyth, enhance the ecological health of the lake and maintain its flood management and drainage functions by:....</i></p>	<p>Policy 10.4.4 recognizes the cultural significance of the lake to Ngāi Tahu but there is no link to providing for those values. The activities in subclauses (a) to (c) may be intended to provide for these values but this can only occur if the activities are undertaken in ways which maintain or</p>

	<p>Retain subclauses (a) to (c) but add after subclauses (b) and (c) the words:</p> <p><i>'In ways that do not adversely affect cultural values and customary uses.'</i></p>	<p>enhance these values and uses.</p>
<p>Rule 10.5.1, p.10-5</p>	<p>Delete Rule 10.5.1</p>	<p>This rule is confusing. It implies that Rules 10.5.2 and 10.5.3 do not apply to any activity which is otherwise a permitted activity in the Land and Water Plan. If this is the case then what activities do these rules apply to?</p> <p>The rules in this sub-regional section should be limited to those which are intended to supersede any region-wide rules.</p>
<p>Rule 10.5.2 & 10.5.3 , p.10-5-10-6</p>	<p>Delete rules 10.5.2 & 10.5.3 and replace with a rule that reads:</p> <p><i>Within the area shown on the planning maps as the Valley Floor Area, any use of land and any ancillary diversion of water or discharge of water or sediment into water or onto land where it may enter water shall be a restricted discretionary activity where it complies with the following two conditions:</i></p> <p>(i) <i>The activity is for the purpose of undertaking works to reduce riverbank erosion or collapse; and</i></p> <p>(ii) <i>The activity is being undertaken in accordance with a</i></p>	<p>As currently worded this rule is uncertain. If it is intended that the rule regulates activities to manage bank erosion so they are undertaken in accordance with an erosion plan, it should say so; and presumably apply whether the activity is permitted by the region-wide rules or not.</p> <p>It is also uncertain what constitutes a riparian margin or the 'banks' of a river and therefore to what land areas the rule(s) apply. In our submission this distinction is not needed; it is not where the activity takes place that is at issue the purpose – that is the desired outcome is that bank</p>

	<p><i>Valley Floor Area River Bank Erosion Plan that has been prepared in accordance with Schedule 24.</i></p> <p><i>The exercise of discretion is restricted to the following matters:</i></p> <p>[Include matters (1) to 11 as listed in Rule 10.5.2]</p> <p><i>Any activity which does not comply with condition 2 shall be a non-complying activity.</i></p> <p><i>For the avoidance of doubt, any activity which does not comply with condition 1 must comply with all relevant the region-wide rules.</i></p>	<p>erosion works are managed in accordance with an erosion plan.</p>
<p>Rule 10.5.4 & 10.5.5</p>	<p>Delete rules 10.5.4 and 10.5.5 and replace with a rule that reads:</p> <p><i>From 01 January 2020 within the Valley Floor Area, the following stock exclusion rules will apply:</i></p> <p>(i) <i>All livestock shall be excluded from Te Roto o Wairewa/Lake Forsyth and from the Ōkana River and tributaries from Church Rd Bridge to the lake and the Ōkuti river and tributaries from Usshers Rd bridge to the lake.</i></p>	<p>The ZIP Addendum (5.6, p.24) refers to excluding stock from the lower catchments of the Ōkana and Ōkuti rivers and these areas defined as the areas from Church Rd Bridge and Ushers Rd Bridge to the mouth of the Lake.</p> <p>It is also unclear what is meant by ‘all stock?’ Presumably this is livestock but does it include pets as well.</p>

Provision	Decision Requested	Any additional reasons
Rule 10.5.7, p.10-7	<p>Either add a new condition to rule 10.5.7(8) which reads:</p> <p><i>8. Wairewa Rūnanga Inc. have granted permission for the activity;</i></p> <p>Or</p> <p>Rewrite Rule 10.5.7 to make the activity a restricted discretionary activity provided conditions 1 to 7 from Rule 10.5.7 are met.</p> <p>Discretion shall be restricted to any adverse effects of the proposed activity on the cultural values and customary uses of Te Roto o Wairewa/Lake Forsyth and the appropriateness of any mitigation measures proposed.</p>	<p>Provision to investigate legacy phosphorus in the bed of Te Wairewa/Lake Forsyth is supported in principle. However when, where and how these investigations are carried out could affect customary uses and values associated with the lake. Wairewa Rūnanga Inc wants to ensure this issue and potential effects are considered as part of any proposal.</p> <p>Ideally this would be addressed by the rūnanga agreeing to any proposed activity. S87A(1) of the RMA provides for permitted activities if an activity complies with the requirements, conditions and permissions if any specified in the Act, regulations, plan or proposed plan. However it is not usual for plan rules to require permission as a condition on a permitted activity. The alternative is a limited resource consent process.</p>
Tables 10(a) to 10(f)	Retain water quality outcomes for Tables 10(a) to 10(f), including the cultural attributes and limits for nitrogen concentration and phosphorus loads.	
New Rule – On-site Waste Water	The Regional Council needs to map or identify the flood-prone areas to which Policy 10.4.1(f) applies and introduce a rule to implement the policy.	A rule will be needed to control on-site waste water treatment and disposal systems in flood prone land to implement Policy 10.4.1(f). Our understanding is that the inundation is from surface water flooding (ei streams) and

	<p>Either: within those mapped flood-prone areas on-site wastewater systems require a resource consent for a restricted discretionary activity; or</p> <p>Require any on-site waste treatment and disposal system within the catchment to be a restricted discretionary activity.</p> <p>The consent application could be non-notified and not served on any affected party. The councils' discretion would be limited to assessing the likely risk of the waste-water system being rendered ineffective from inundation and the effectiveness of any mitigation measures.</p>	<p>there are no conditions under regional rules 5.7 and 5.8 that deal with this effect other than a general setback requirement of 20m from surface any surface water body.</p> <p>We also understand that these flood-prone areas have not been mapped or defined. We note that both sets of relief sought may create issues around scope and may require a further plan change.</p>
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Provision	Decision Requested	Any additional reasons
<p>New Rule – Farm Plans</p>	<p>Add a new rule that farming is a permitted activity in the Valley Floor Area provided that a farm environment plan is prepared and implemented by 01 January 2020.</p> <p>The farm environment plan shall:</p> <ul style="list-style-type: none"> <li data-bbox="622 555 1375 676">(i) Identify any potential critical sources of sediment and P loss or erosion on the farm and actions to minimize sediment and P losses; and <li data-bbox="622 724 1375 900">(ii) Address the management of livestock grazing in proximity to waterways and when crossing waterways to avoid causing or exacerbating bank erosion or the direct discharge of animal effluent into water. 	<p>Sediment and P control are the major issues in this catchment and the ZIP addendum recommended action 5.2 is for all landowners to prepare environment plans to manage erosion and stormwater hotspots. However there is no method to implement this in the plan change. Our understanding is that most farms in the catchment have N losses substantially below 20kg/ha/yr so will not be required to prepare farm environment plans under the region-wide rules. Land areas under 5ha are not required to prepare farm plans either. While N loss isn't an issue in this catchment, sediment and P loss is.</p> <p>Ngāi Tahu would prefer landholders spent time and resources preparing and implementing environment plans than obtaining resource consents, so would like to see a rule that allows farming as a permitted activity in the Valley Floor Area provided a sediment and erosion plan is developed and implemented.</p>