

BEFORE THE

Canterbury Regional
Council independent
hearing panel: Gordon
Whiting (Chair), Andrew
Fenemor

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

Plan change 6 (Wairewa) of
the Canterbury Land and
Water Regional Plan

**STATEMENT OF EVIDENCE OF FIONA MACKENZIE (LAY WITNESS) FOR
COMBINED CANTERBURY PROVINCES, FEDERATED FARMERS OF NEW
ZEALAND**

Dated 4 March 2016

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Introduction

1. My name is Fiona Katrine Mackenzie. I am a Senior Policy Advisor, employed by Federated Farmers, based in Christchurch.
2. Federated Farmers submitted on proposed Plan Change 6 and would like to attend the hearing. We will have two farmer lay witnesses at the hearing to provide some practical context to the matters raised in our submissions.
3. Having read the S.42A report, our concerns now relate mostly to Rule 10.5.5 and the implications this has for farmers use of productive land, since all stock will need to be excluded from riparian margins for a setback distance of 5m and in some areas 10m, from the Okana, Okuti and Takiritawai rivers and their tributaries.
4. We believe this goes far further than was envisaged at Zone Committee stage, and the use of Prohibited status at Rule 10.5.5 is a step too far, particularly when it has been acknowledged by Ecan that there will be occasions when managed grazing by sheep for weed control in the riparian margins is useful, and certainly preferable to chemical spraying.
5. We are concerned about the loss of productive grazing land and the potential for invasive weeds in the riparian margins, and we believe the solution to both problems is in a more flexible and pragmatic approach, which can still prevent bank erosion and sediment loss to Lake Wairewa.

Federated Farmers position

6. Federated Farmers supports the objectives of Plan Change 6, but we believe that Prohibited status (Rule 10.5.5) is too blunt an instrument, and is not the most effective or efficient method to improve water quality at Lake Wairewa. We do not think it is helpful to use a blanket prohibition (the biggest 'stick' available) when it is clear that landowner engagement is critical to the success of the Plan.
7. 'Prohibited' status allows no flexibility at all in the regulator's approach to a wide variety of property-specific situations in the Valley Floor Area. Elsewhere in the region, and including in the Christchurch District Plan review of land use rules on Rural Banks Peninsula, efforts are being made to introduce rules that work in the context of productive farming, as these are always better accepted, and concessions are willingly made by farmers where they can see that the regulator has understood farming constraints.
8. We suggest that most farmers are happy to exclude cattle from riparian margins in the Valley Floor Area. Cattle are heavy animals that will enjoy wallowing in water, given the chance. Sheep are much lighter on the ground, and do not like water.
9. Rule 10.5.4 proposes applying the status quo stock exclusion rules in the Regional Plan until 1 January 2020. As an idea, it may be worth exploring with our members an earlier exclusion— of cattle only— from riparian margins in the Valley Floor Area, in expectation of a more flexible approach in Rule 10.5.5 from 2020. (Cattle can be kept out with a simple hotwire, relatively easily, compared to sheep, which require full fences.)

Options we see within the proposed plan include as follows:

Rule 10.5.2

10. Where a landowner may be already preparing a river bank erosion plan under Rule 10.5.2, for the purposes of bank erosion or flood management, it should be possible to include a livestock management plan as part of that, which could then allow specified livestock grazing activities as Permitted activities, in accordance with that plan.
11. We note that Ngai Tahu has suggested something similar with FEPs, and that the S42A report (at 11.133 and onwards) rejects this, as a wider concept. However we see no reason why Rule 10.5.2 can't be expanded to allow stock exclusion matters within an already-required Bank Erosion Plan.

Rule 10.5.5: Restricted Discretionary

12. If the opportunity does not arise through Rule 10.5.2, (where a landowner is not required to do a Bank Erosion Plan), then we suggest that Restricted Discretionary is the appropriate activity status for Rule 10.5.5, taking effect after 2020. This would allow the regulator to decline consent, or to impose conditions, and depending on the specific situation of the property, may enable better outcomes to be achieved.
13. Not a lot of dialogue is possible with a 'Prohibited' classification, and we believe that engagement with landowners is key to the success of any proposal like this. We understand the regulator's desire to send a strong signal to landowners that stock should be kept out of riparian margins, but as always, it is a lost opportunity if the ability for landowners to engage with Ecan is taken away.
14. Invariably, it is better to have a slightly more flexible and intelligent approach that leaves the door open for creative solutions. There is no reason why a Prohibited classification will achieve any better outcomes than a lesser classification which requires consent, and it shuts the door to any new initiatives, landowner or science driven, that may arise. Matters for discretion should be specific and targeted.

Section 32 analysis inadequate

15. We believe the Section 32 analysis for Plan change 6 is inadequate in that the value of loss of production from riparian land has not been calculated (page 62, Section 32 report).
16. A 5m, and in some cases 10m, setback on either side of the rivers and tributaries in the Valley Floor Area is effectively a 10 or 20 metre 'corridor' of land that is taken out of production. And on top of this will be the cost of pest plant control as a result of stock being excluded from that land.

17. The cost of fencing required to keep stock out has been roughly calculated (page 60 Section 32 report) but it is unclear whether this includes the farm management, labour and time involved or the fencing materials alone.
18. A Restricted Discretionary Rule 10.5.5.would allow grazing by sheep to enable more productive use of land, as well as weed control, which would be more efficient than a blanket prohibition. A productive farmer is better resourced to comply with environmental regulations, and much more likely to do so.

Other considerations

19. There may be instances where reasonable use of land in terms of Section 85 RMA is injuriously affected.
20. The idea of zone committees is that they will guide the regulator to a more tailored solution to a sub-regional problem. However the solution which has come back from Ecan in this instance is more heavy-handed than was signalled by the Zone Committee.
21. Rules that affect the use of privately-owned productive land need very careful consideration and we believe that in this situation, where landowners are up for considerable costs associated with the exclusion of stock, it will be helpful to have a more reasonable approach to the post-2020 phase of the Plan. We do not accept that a blanket 'Prohibited' status is helpful, especially for stakeholder engagement, as it removes all possibility of conversations and the regulator simply defaults to a prosecutor, going forward.

The hearing

22. Federated Farmers will provide two farmer lay witnesses to provide some context to the issue of stock exclusion, and to answer any questions the Panel may have about the effect of proposed rules on farming in the area..