

From: [Kurt Sloss](#)
To: [Mailroom Mailbox](#)
Subject: PL Ch Submission
Date: Friday, 11 March 2016 8:25:02 a.m.
Attachments: [Pl Ch 5 Submission \(1\).pdf](#)
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Please see attached

Regards

Kurt Sloss

**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 or plan change

To: Environment Canterbury
PO Box 345
Christchurch

Name of Submitter:

Kurt Sloss

This is a submission on the following proposed plan – **Plan Change 5 to the Partially Operative Canterbury Land and Water Regional Plan**

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

The specific provisions of the proposal that my submission relates to are: **The entire plan change and section 32 report.**

PART 1 GENERAL COMMENTS:

1.1 My submission is:

We are intergenerational, family farmers in North Canterbury. Our farms are our homes, our livelihood, our vocation and our passion; we farm to the highest standards of animal welfare and environmental ethics. We are committed to leaving for our children the land, water bodies and biodiversity on our farms in as good if not better state than we inherited them. As such we are committed to addressing land uses and farm practices that are resulting in deterioration of our water bodies.

We are committed to obtaining quality information to better understand the condition of our water bodies and the causes of any reductions in quality or flow. Where decision-making by farmers or by regulatory authorities is shown to be the cause of these issues, we are committed to having that situation redressed, using methods and timeframes that are practicable and workable on farm.

To survive we must retain flexibility in our land use. To live in harmony as rural communities, we need activities that are having like effects to be treated consistently. We expect the extent of any management or regulatory intervention to be commensurate with the contribution an activity is making to the problem; and to be focused on dealing with the issue at hand.

We fully support planning regimes that are based on these principles. We do not support planning regimes that:

- Require farmers to comply with a lot of bureaucracy where it is not going to result in any improvements in environmental outcomes on the ground;
- Assume all farming is the same and that the worst examples of poor practice are representative of all or the majority of farmers;

- Do not take into account the activities and practices being carried out on farm to promote good land husbandry and environmental management; or
- Rely on poor quality information, no information, or disregard the scientific information available in coming to a position.

We believe the combination of flexibility caps for nitrogen loss for permitted activities in every zone and the provisions for resource consents and Farm Environment Plans for higher nitrogen loss activities is a workable approach and to that end support the approach in the partially operative Canterbury Land and Water Regional Plan (LWRP) to manage water quality.

It was our understanding that the purpose of Plan Change 5 was to essentially replace the flexibility caps expressed as kgN/ha/yr modeled in Overseer™ with land use rules, due to the ever changing versions of Overseer™. We note that part of Plan Change 5 has attempted to do this and we support the notion in principle subject to some changes to the conditions for permitted activities requested in this submission.

However we note that the rest for plan Change 5 still relies heavily on N loss numbers from Overseer™ only this time they numbers are modeled approximates for nitrogen loss rates when Good Management Practices (GMP) are assumed to be built in. There is a substantial factor or error in Overseer™ estimates of nitrogen loss when it is used with specific on-farm data; errors that can only be compounded when further modeling of the modeled data is undertaken to create the GMP loss rates. It isn't surprising that there is anecdotal evidence of substantial discrepancies between the GMP loss rate numbers generated in the Portal and what people are modeling on farm, taking into account GMPs. It seems Plan Change 5 has an inherent tension.

We also note that Plan Change 5 has made changes to both the policy positions for management of nutrient losses from farming activities in the various water quality zones, and the amount of bureaucracy required for farms as permitted activities from that in the LWRP. These changes we do not support as necessary or appropriate. More detail is provided on the specific provisions of Plan Change 5 below.

1.2 Our reasons are:

In our view the changes requested in this submission are necessary to:

- Achieve the purpose of the Resource Management Act 1991 (RMA);
- Discharge the Council's duty under s32 of the RMA;
- Give effect to the National Policy Statement for Freshwater 2014 (NPSF);
- Give effect to the Canterbury Regional Policy Statement (CRPS); or
- Ensure consistency with the Council's very recent decisions on the policy direction in the LWRP.

1.3 The decisions we request are:

- To amend Plan Change 5 along the lines outlined in this submission including any consequential amendments necessary to give effect to the amendments sought in this submission; and
- To retain those parts of the LWRP as they are currently written which are not requested to be amended by this submission as notified.

PART 2: POLICIES

2.1 Our submission is: we oppose policies 4.11, 4.34, 4.36 to 4.41D.

2.2 Our reasons are as set out below:

- Policy Drafting
The policies repeat the rule provisions. This style of policy writing is much less helpful than effect-based policies because the policies do not identify the effects sought to be managed or the outcomes to achieve the plan objectives. This is inconsistent with the rest of the LWRP which largely

uses effects-based policies. The policies could be condensed and made more concise. Policies 4.11 and 4.38AB as currently worded fetter discretions given to the consent authority in statute.

(ii) Policy 4.11

Policy 4.11 seems to miss the mark a little; it isn't the time before a plan is reviewed that should determine the duration of the consent. The issue is when resource consents are granted with very long durations for activities that have a significant impact on water quality and quantity, and those impacts may not be appropriate long-term. A 35 year consent will limit the effect of any new plan to manage water quality or quantity whether it is granted two years before a plan review occurs or one year after it.

(iii) Policy Positions for N Loss in Water Quality Zones

Policies 4.37 to 4.38AA assume that the water quality classifications for the zones in the LWRP are correct and that poor water quality is the result of farming activities. The Council's own information and evidence on the LWRP shows this isn't always the case. The Council's decisions on the LWRP stated the LWRP was about 'holding the status quo' in Red and Orange zones and that any issues with inaccurate zoning or incorrect presumptions relating to the causes of water quality issues would be addressed in sub-regional sections.

The Blue and Green zones are acknowledged in the LWRP as either meeting water quality outcomes or not having water quality outcomes set as there is no sensitive receiving environment. Either way, it does not achieve the purpose of the Act nor is it necessary to give effect to the NPSF to restrict all farming activities in those catchments to no more than a 5kg/ha increase in N loss.

Similarly some lakes in Lake Sensitive Zones have very good water quality but would be vulnerable to nutrient enrichment if a change of land use resulted in significant increases in N or P/sediment losses. The water quality in other lakes in the Lake Sensitive Zones is already affected by N or sediment/P losses. A 'one boot fits all' policy position is not appropriate given the different states of water quality in these different areas.

(iv) Permitted Baseline – Policy 4.38A

A key component of the purpose of the RMA is to manage the effects of activities on the environment. The permitted baseline concept is provided for within the RMA, recognizing the legitimacy of a comparison between the effects of an activity which is permitted and an activity which is not permitted but has a commensurate effect. The use of the permitted baseline test could prove very beneficial particularly in the case of activities which do not meet the thresholds for permitted activities but which have corresponding low N losses.

3.3. The decision we seek is to delete Policies 4.11, 4.34, 4.36 to 4.41D and replace with policies which:

- (i) Recognize the need for farmers to retain flexibility in their land uses to provide for their economic well-being and the economic well-being of New Zealand, and to ensure any regime provides for flexibility in land uses within limits for N loss that are appropriate considering both the need for farmers to make reasonable use of their interests in their land, and the sensitivity of the receiving environment.
- (ii) Promote that all farming activities should use the industry agreed Good Management Practices or other appropriate farm management programmes to minimize the risk of N or P/sediment losses to water.
- (iii) Specify that any management of existing farming activities that is necessary to manage N losses or P/sediment losses beyond adopting GMPs is done as part of catchment planning processes. However Plan Change 5 should be sending a signal that those catchment process but should follow a principle that any management of N or P/sediment losses should be commensurate with the amount of N or sediment/P an activity is contributing to the problem; and should consider both the

sensitivity of the receiving environment and appropriate timeframes for people to adjust their land uses or invest in additional infrastructure where necessary.

- (iv) To manage changes to land uses in the interim to avoid people shifting from relatively low to relatively high N loss land uses within Red, Orange and Lake Sensitive zones; and to ensure any change for land use in Blue or Green zones will not affect water quality in those catchments.

Part 3. Conditions for Farming as a Permitted Activity

3.1 Areas under 10ha in Size - Rule s 5.43A, 5.49A, 5.53A, 5.57A

3.1.1 Our submission is: we oppose rules 5.43A, 5.49A, 5.53A, 5.57A

3.1.2 Our reason is: We do not agree that it is appropriate to differentiate whether a landholder has to comply with any rules for water quality based solely on size of the property. It isn't the size of the property which is important but the land uses and whether any risk to water quality is appropriately identified and managed.

3.1.3 The decision we request is:

- Delete Rules 5.43A 5.49A, 5.53A, 5.57A and replace with the amended rule for any farming activity as a permitted activity which is requested below.

3.2 Farming as a Permitted Activity in Red, Orange, Green & Blue Zones - Rules 5.44A, 5.54A, 5.57B and Schedule 7A

3.2.1 Our submission is we oppose these provisions, in particular conditions (1), (3), (4) and (5) of Rule 5.44A and conditions (1), (3) and (4) of Rules 5.54A and 5.57B, and Schedule 7A.

3.2.2 Our reasons are outlined below:

(i) Registration in the Farm Portal

Condition 1 is not an appropriate condition by which a farming activity is permitted. It makes no difference to water quality whether a farmer registers their farm in the Portal. It is the activities on the ground which should determine whether the activity can be considered a permitted activity under the RMA.

The current Portal requires farmers to submit information on their land use to the regulatory authority without being advised what the rules are for permitted activities. This may be a breach of s60 of the Evidence Act 2006.

Farmers are being asked to provide details of their farming activities without any information about how or by whom that information will be used or will be accessible to under the Local Government Official Information and Meetings Act 1987.

If the information is being requested to assist in catchment accounting purposes, this should be decoupled from the rules for compliance as a permitted activity. There are other, possibly more accurate, ways to obtain estimates for N loss from permitted activities for catchment accounting purposes.

The issuing of a GMP Loss Rate number for farms as permitted activities based on the information they are providing into the Portal is unhelpful. The questions are insufficient to calculate an accurate N loss number and anecdotal evidence is indicating the numbers being issued by the Portal vary considerably from the numbers for farm specific Overseer modeling.

The important part of Plan Change 5 is ensuring farmers, especially those with higher N or P/sediment losses are operating in accordance with Good Management Practices. The GMP Loss Rate number itself is only of a value if it can provide a reasonably accurate numerical representation of those actions.

(ii) Additional Irrigation in Red Zones– Rule 5.44A (3)

It isn't clear why people who are already irrigating up to 50 hectares of land in a Red Zone may be a permitted activity, but those irrigating less than 50ha can only increase their land irrigation by 10ha and remain a permitted activity. This condition appears to reflect a past notion or position held by some staff within Environment Canterbury that even the smallest increases in N loss from people's current losses will result in further deterioration in water quality in Red Zones. The modeling of the impact of flexibility caps on nutrient loads in Selwyn, Hinds and Hurunui-Waiiau catchments have shown that this is not the case.

(iii) Winter Grazing - Rule 5.44A(4) and Rules 5.54A (3) and 5.57B (3)

Alongside soil type and rainfall, the single biggest influence on N loss numbers is the grazing of cattle. Therefore we accept that as part for the thresholds for permitted activities it is appropriate to limit intensive cattle grazing.

We do not support the current proposal for 20 hectares of land because it isn't the area that is the determinant of N loss but how it is used. A landholder growing 19.5 hectares of fodder beet or kale for dairy support could have substantially greater N loss numbers than a landholder who is grazing 60 hectares of rape and grass with a mix of cattle and sheep; depending on how many cattle are grazing each crop. It isn't clear how the feeding of supplements relates to the 20 hectare proposed land area limit. There is no exemption for the feeding of supplements to cattle during adverse climatic events such as drought or snow.

In our submission a more effective measure would be to limit the number of weaned cattle that can be intensively grazed on a winter fodder crop at a stocking density of more than 15su/ha as a permitted activity. An alternative is to limit the land area used for winter grazing as a percentage of the property.

(iv) Farm Management Plan - Rule 5.44A(5) and Rules 5.54A (4) and 5.57B (4) and Schedule 7A

The requirement to prepare a Farm Management Plan in accordance with Schedule 7A which is to be retained by the farmer and produced for Environment Canterbury on request is an example of unnecessary bureaucracy that costs time and money but is of no benefit to improving water quality. A similar approach was rejected by the Council in its decisions on the LWRP. In addition the requirements in Schedule 7A includes information that is not relevant to managing effects of farming activities on water quality, including identification for Significant Sites of Indigenous Vegetation.

In our submission a more effective approach would be to encourage farmers to focus on practices on farm. Many farmers already partake in farm management planning either through their grower representative bodies such as Beef and Lamb, FAR, Horticulture NZ or Dairy NZ or through farm consultancies. Many of these programmes are more advanced than the industry articulated GMP.

In our submission the above condition would be better replaced with a condition requiring all farmers to operate in accordance with an industry- recognized farm management programme (this could be defined) or in accordance with any relevant provisions in the *Industry-Agreed Good Management Practices Relating to Water Quality – September 2015*.

(v) Activities that do not Meet the Conditions for Permitted Activities but have Low N losses

Rules 5.43, 5.53, and 5.57 in the LWRP provide flexibility for those activities low N losses to be able to change and alter their land uses and associated changes in N loss, provided their N losses remain under the limits set in these rules. In other words a flexibility cap.

The value of providing some flexibility for low N loss farming activities was recognized by the Council in its decisions on the LWRP and plan changes 1 and 2. Therefore we can only deduce that this change has been made in Plan Change 5 because the Council has assumed any farming activity which does not meet the conditions for a permitted activity will have a high N loss number. However that is not the case. There are examples of properties in North Canterbury which are irrigating more than 50 hectares of land for sheep production, viticulture, horticulture or other crops and have very low N losses. Should the markets for these activities change, they have very few options should they be confined to their N baseline or GMP loss rate.

Similarly, there are examples of other properties which have been granted resource consent for irrigation of more than 50ha and are currently moving from very low N loss crops such as pine plantations to new land uses. While we agree that in Orange and Red zones these activities should not be allowed to move to relatively high N loss activities, they need some flexibility in their N loss baselines to be able to undertake other land uses. The activity will be prohibited in a Red Zone under Rule 5.48A; a non-complying activity in an Orange Zone under Rule 5.56AB; and a non-complying activity if the N loss increases by more than 5kg in a Blue or Green Zone under Rule 5.59A.

3.2.3 The decisions we seek are:

- Delete Rules 5.44A, 5.54A, 5.57B and replace with the following rules:

Within the Red, Orange, Green or Blue Nutrient Allocation Zones, any farming activity is a permitted activity if it complies with all of the following conditions:

1. *The farming activity is undertaken in accordance with an industry recognized farm management programme or in accordance with the Industry-Agreed Good Management Practices Relating to Water Quality – September 2015; and*
2. *The area of the property irrigated or authorized to be irrigated by any water permit is less than 50 hectares; and*
3. *The number for weaned cattle winter grazing on the property does not exceed the lesser of 200 cows or 10% of the area for the property.*

Any farming activity which does not comply with conditions (2) or (3) is a permitted activity if it meets all of the following conditions:

1. *The farming activity is undertaken in accordance with an industry recognized farm management programme or in accordance with the Industry-Agreed Good Management Practices Relating to Water Quality – September 2015; and*
2. *The estimated nitrogen losses from the farming activity as modeled in Overseer do not exceed the following:
15kg/ha/yr in a Red Zone; or
20kg/ha/yr in an Orange, Green or Blue zone*

Or as an alternative

2. *The estimated nitrogen losses from the farming activity as modeled in Overseer do not exceed the estimated nitrogen losses for any farming activity on the property that could be undertaken as a permitted activity under Rule X above.*

- Make a consequential amendments to include the following definition -
‘recognized farm management programme’ means a programme for farm management that has been prepared for that farm by either the farmer or another suitably qualified individual or organization and includes provisions to identify and manage potential effects of farming activities on water quality. Recognized farm management programmes include but are not limited to farm environment programmes and prepared by Beef & Lamb, Dairy NZ, Foundation for Arable Research, Horticulture NZ, NZ Winegrowers Association, Irrigation NZ and registered farm consultants.’

- Amend the definition of 'winter grazing' to read:
'Winter grazing means the grazing of weaned cattle from the period 01 May to 30 September in any year under conditions whereby the cattle are contained for break-feeding of forage crops or supplements at a stocking rate of more than 15su/ha, as part of normal farming activities. It does not include the containment of cattle and feeding of supplementary crops during adverse climatic events such as drought, flood or snow.'
- Delete Schedule 7A.
- Make consequential amendments to other provisions as necessary to give effect to the relief sought.

PART 4 - RULES FOR FARMING AS A CONSENTED ACTIVITY

4.1 Our submission is we oppose Rules

4.1 Use of Good Management Practice Loss Rate

4.2 Status of Activities that Do Not Meet GMP Numbers

4.3 Amendments to Schedule 7

4.3.1 Our submission is we oppose the changes proposed to Schedule 7.

4.3.2 Our reasons are:

Schedule 7 to the LWRP contains the matters which must be included in Farm Environment Plans (FEPs) when FEPs are required under the plan rules. There is no indication on p1-2 of the plan change that lists the proposed amendments to the LWRP that any changes are to be made to Schedule 7, except as it applies in the Waitaki sub-regional section. It is possible there will be people who may be affected by the amendments to Schedule 7 who have not anticipated that Schedule 7 is proposed to be amended on reading the introduction to Plan Change 5.

Schedule 7 already clearly and comprehensively identifies issues that need to be included where relevant in FEPs. It isn't clear what value is added by the new amendments.

The new amendments are vague. It isn't clear what is meant by the various management areas proposed, how they apply to individual farms and how they are defined. It isn't clear what the proposed objectives and targets mean for each management area and how they are to be reflected in the FEP, particularly at a farm level. There does not seem to be any option not to use the area management plan approach even if it is irrelevant to a farm.

Several grower industry bodies and irrigation companies have had FEP templates approved by Environment Canterbury as complying with Schedule 7 and farmers have started using them. It isn't clear whether these templates will need to be amended and reapproved for compliance with the amended Schedule 7 and if so, the reason that justifies the cost of doing this and the confusion for people who have started using them.

4.3.3 The decision we request is to delete the proposed amendments to Schedule 7 and retain Schedule 7 as currently written in the LWRP.

PART 5. MAPS SHOWING HIGH SEDIMENT AND PHOSPHOROUS RISK AREAS

5.1 Our submission is: we oppose the inclusion for the Replacement Map Series showing the High Runoff Risk Phosphorous Zones

5.2 Our reasons are:

These maps have been produced as a desktop exercise on maps with a scale of 1:75 000. There has been no 'ground-truthing.' As with all maps prepared in this way they will contain many generalizations and inaccuracies. Our issue is not with identification of areas with high phosphorus loss risk per se. Where that information is correct it is important to identify it and to accommodate that risk in farm management. The issue is the use of desk-top mapping.

The Council has a duty of care when including information in statutory planning documents that it is correct. The burden is on the planning authority to make sure the information is correct, not on the landholder to prove to the Council their desktop map is wrong, as it applies to their property.

The maps add no value to the LWRP in their current form. If an activity requires a FEP, then one of the matters in Schedule 7 as it is currently written in the LWRP is to identify sources of sediment and P loss and how they will be managed. If any action above GMP is required for managing sediment or P loss in a particular area this should be identified and provided for in catchment planning processes in the sub-regional sections.

5.3 The decision we request is to delete the replacement map series as it relates to showing High Risk Runoff and Phosphorous Zones.

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

(Signature of submitter or person authorized to sign on behalf of the submitter)

11th March 2016

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