

Plan Change 6 to the Canterbury Land and Water Regional Plan

Addendum to the Section 32A Report - 29 April 2016

1. A further evaluation pursuant to section 32AA of the RMA, undertaken in accordance with section 32(1) to (4) is required for any changes that have been made, or are proposed, for the plan change since the section 32 evaluation report was completed, which must be at a level of detail that corresponds to the scale and significance of the changes. This further evaluation must be published in an evaluation report that is made available at the same time the decision on PC6 is made; or, be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken.
2. It is noted that Section 32AA requires an evaluation of the changes. In this regard an evaluation is not provided of matters that are unchanged between the notified version and the Reply Recommendations.
3. The Reply Recommendations include changes to policies and rules that have the effect of making the policy or rule more effective, certain and specific, expanding its coverage, or making relatively minor alterations to the content of policies and rules.
4. While the Reply Recommendation changes have been considered carefully, when aligned with the options evaluated within the Section 32 report prepared for notification of Plan Change 6, the revised policies and rules still fit comfortably within the scope of the options considered and accordingly the evaluation still stands.
5. The primary reason for this is that the Section 32 evaluation generally stays at a "topic" level and evaluates a set of policies and rules that achieve a particular outcome, rather than assessing the specific wording of the policies and rules.
6. On this basis, the policies and rules have been re-evaluated in terms of Section 32(1)-(4) and the evaluation recorded for the Section 32 report at the time of notification is considered to appropriately and accurately reflect the changes incorporated in the Reply Recommendations. Accordingly, no further written record of the further evaluation is necessary.
7. There are two changes to PC6 that warrant further evaluation under s32AA of the RMA. Council Officers advised that an Addendum to the section 32A Report would be filed providing a further assessment of these matters, which are as follows:
 - a. Deletion of stock exclusion Rule 10.5.5 and replacement with four rules as drafted in a Joint Statement of Federated Farmers, North Canterbury Fish and Game, Te Rūnanga o Ngāi Tahu, Wairewa Rūnanga and Canterbury Regional Council; and
 - b. Insertion of Policy 10.4.4A on the cultural significance of Te Roto o Wairewa/Lake Forsyth.

Replacement of notified Rule 10.5.5 – stock exclusion

8. Following productive discussions on 20 April 2016 a Joint Statement of Federated Farmers, North Canterbury Fish and Game, Te Rūnanga o Ngāi Tahu, Wairewa

Rūnanga and Canterbury Regional Council proposed four new rules (Rules 10.5.5, 10.5.5A, 10.5.5B and 10.5.5C) to replace notified Rule 10.5.5.¹

9. The text of Rules 10.5.5A, 10.5.5B and 10.5.5C in the Joint Statement was slightly amended in the Officers' Reply Recommendations to improve their clarity but not materially change the intent. The changes from the Joint Statement text are highlighted in grey in the version of PC6 showing the Officer's final recommendations.²
10. Rule 10.5.5 as notified, prohibited all stock from the bed, banks and riparian margins³ of the Ōkana, Ōkuti and Takiritawai Rivers and their tributaries and of Lake Forsyth/Te Roto o Wairewa within the Valley Floor Area from 1 January 2020.
11. Replacement Rule 10.5.5 retains the position that stock are prohibited from the bed, banks and riparian margins of rivers and the lake within the Valley Floor Area from 1 January 2020. However, subsequent rules provide limited exceptions to Rule 10.5.5 in response to submitter concerns over the blanket prohibited activity status, as follows:
 - a. Rule 10.5.5A enables sheep to graze within the riparian margins of rivers and the lake within the Valley Floor Area as a restricted discretionary activity if resource consent is obtained.
 - b. Rule 10.5.5B allows stock (excluding sheep) to graze within the riparian margin as a permitted activity if a permanent barrier/fence was established within the riparian margin prior to 20 April 2016 and is maintained. The barrier/fence must be at least 2 metres from the bed of the river or lake, and stock must be on the landward side of the barrier/fence.
 - c. Rule 10.5.5C allows sheep to graze within the riparian margin as a permitted activity if permanent post and wire fencing was established within the riparian margin prior to 20 April 2016 and is maintained. No minimum distance is specified as to how far the fence must be from the bed of the river or lake however, there must be no evidence of damage to the riparian margin or riparian planting on the river side of the fence.

Assessment of Effectiveness and Efficiency of Replacement Stock Exclusion Rules

12. Table 10 in the section 32 Report assesses the effectiveness of PC6 provisions (including stock exclusion Rule 10.5.5) for managing phosphorus and sediment upstream of the lake against relevant LWRP Objectives⁴.
13. The new rule framework is still considered to implement the LWRP Objectives in Table 10 and the effectiveness assessment in the Section 32 Report remains valid.

¹ See Section 42A Reply Report dated 22 April 2015 at [10]-[16] and Appendix A Joint Statement – Stock Exclusion.

² See proposed Plan Change 6 - Version Showing Final Officer s42A Report recommendations dated 22 April 2015 at Rules 10.5.5, 10.5.5A, 10.5.5B and 10.5.5C.

³ Riparian margin is defined in Section 2 of the LWRP as being land within 5 m of the bed of any lake, river or wetland boundary; or 10 m in Hill and High Country land or land shown as High Soil Erosion Risk on Planning Maps.

⁴ Section 32 Report – Plan Change 6 to the Partly Operative Canterbury Land and Water Regional Plan at Section 9.3 pp57 to 58.

However the following additional comments are made with respect to the replacement rules:

- a. The new rules preserve the original intent which is to protect rivers vulnerable to bank erosion and the Lake in the Valley Floor Area by excluding **all** stock (not only intensively farmed stock) from the bed and banks of rivers and also their riparian margins in most circumstances.
 - b. All stock can exacerbate bank erosion if soils are unstable and can damage riparian vegetation. Nevertheless, the new rules introduce a consent pathway for sheep to graze within the riparian margins, recognising that they are likely to do much less damage than heavier stock and stock attracted to water, such as cattle and deer. The rule framework retains control over important matters including the intensity, timing and duration of grazing to manage potential adverse effects (specified), whilst at the same time providing flexibility for landowners who want to graze sheep in the riparian margins to control pest plants.
14. Table 11 in the Section 32 Report assesses the efficiency (costs and benefits) of PC6 provisions (including stock exclusion Rule 10.5.5) for managing phosphorus and sediment upstream of the lake⁵.
15. The original efficiency assessment also remains valid, however the following additional comments are made with respect to the replacement rules:
- a. The environmental benefits of the replacement rules are still considered “high” even though the rules enable sheep to graze within the riparian margins and other stock where permanent fencing had previously been established. The environmental benefits are retained because the matters for discretion in Rule 10.5.5A provide scope to manage any adverse effects with respect to sheep, and permitted activity Rules 10.5.5B and 10.5.5C require that the existing fencing/barriers is maintained and remains effective.
 - b. The replacement rules are likely to carry a lower economic cost for individual landowners relative to notified Rule 10.5.5.
 - c. The inclusion of permitted activity Rules 10.5.5B and 10.5.5C allows landowners to keep existing fencing (in certain situations). This means landowners will no longer incur the cost of relocating existing fences to align with the riparian margin boundary.
 - d. The new rules also provides a consent pathway for sheep to graze the riparian margin which will reduce the loss of productive land and the costs associated with pest plant control using herbicides. There will however, be an additional cost of applying for resource consent.
 - e. The revised rule framework is also considered to be more socially and culturally acceptable given that it is supported by all the parties to the Joint Statement (refer 1a. above)

⁵ Section 32 Report – Plan Change 6 to the Partly Operative Canterbury Land and Water Regional Plan at Section 9.3 pp59 to 63.

Cultural Significance Policy 10.4.4A

16. The Section 42A report and subsequent Joint Statement of Council and Ngāi Tahu expert planning witnesses recommended inserting a new policy 10.4.4A to recognise the cultural significance of the lake.⁶ This is acknowledged though the lake's status as a Statutory Acknowledgement site under the Ngāi Tahu Claims Settlement Act 1998 and as a customary lake under Fisheries Regulations.
17. Policy 10.4.4A did not form part of the notified PC6 or Section 32 Report, however, inserting the policy will mean PC6 better implements Objective 3.1 of the LWRP which states: "*Land and water are managed as integrated natural resources to recognise and enable Ngāi Tahu culture, traditions, customary uses and relationships with land and water.*"
18. The benefits of Policy 10.4.4A are that plan users will need to consider the lake's cultural significance when applying for resource consents under the LWRP, and that council staff will have the discretion to assess relevant applications having regard to the lake's status.

⁶ Joint Statement of Planning Witnesses dated 18 April 2016 at Table 1, item (5).