

Tabled at Hearing Monday 2 May 2016

IN THE MATTER

of the Resource
Management Act 1991
(RMA);

AND

IN THE MATTER

Environment
Canterbury (Temporary
Commissioners and
Improved Water
Management) Act 2010

AND

IN THE MATTER

of the proposed Plan
Change 3 to the
Canterbury Land &
Water Regional Plan
(CL&WRP)

Submission on Behalf of Ravensdown Limited

29 April 2016

Introduction

1. Ravensdown Limited (Ravensdown) lodged submissions to proposed Plan Change 3 to the Canterbury Land & Water Regional Plan (CL&WRP) and has attended the hearings of its submissions providing expert planning evidence. Furthermore, Ravensdown participated in technical and planning caucusing and provided a response to the joint caucusing statement by way of a submission dated 3 March 2016 in accordance with the invitation given by the Commissioners in Minute 7.
2. In the submission, Ravensdown addressed issues with the Caucusing Statement relating to the role of the expert panel, the certification of experts updating limits, and comments made by Mr Norton on prohibited activities.
3. In Minute 8 (dated 22 April 2016) the Commissioners invited any party to make a presentation to the panel on any outstanding issue included in caucusing report and any subsequent memoranda. Ravensdown provides the following submission to this invite.

Background

4. From the technical caucusing and planners caucusing held in January 2016, three documents were prepared and submitted to the Hearings Panel to assist it in its deliberations on submissions on the nutrient management framework to be adopted in Proposed Plan Change 3. These three documents are:
 - The Caucusing Statement dated 5 February 2016;
 - Appendix 4 '*Updating the SCCS Maximum Caps and Flexibility Caps: technical methods*' to the Caucusing Statement dated 5 February 2016;
 - Statement of Evidence of Edward John (Ned) Norton.
5. As Ravensdown had been fully involved in the hearings and caucusing process, many of its concerns and views have been expressed and have either been incorporated into the Caucusing Statement and the Appendices, or are not being pursued any further as a clearer understanding of what the intent of the Proposed Plan Change 3 has been gained.

6. Ravensdown generally endorsed the findings of the Caucusing Statement; the technical methods developed in Appendix 4; and the statement of evidence of Mr Norton. Ravensdown made only a few minor responses as outlined in paragraph 2 above.

Submission Point

7. Ravensdown wishes to address one outstanding issue contained in the s.42A Reply Report:

How should PC3 accommodate changing versions of OVERSEER?

8. The relevant sections of the s.42A Reply Report are paragraphs [8.161] to [8.186] (pages 59 – 66) and paragraphs [9.31] to [9.56] (pages 73 – 79).
9. The brief given to the planning caucusing by the Hearings Panel under Minute 7 dated 16 December 2015 included: *“The planning caucusing group are to continue with preparing draft provisions addressing the issue of the plan complexity in accordance with their caucusing statement dated 9 December 2015”* (paragraph 4 (a)).
10. Ravensdown participated in the planners caucusing, and endorsed the recommendations of the planners to simplify Proposed Plan Change 3 provisions in its submission to the Hearings Panel dated 3 March 2016.
11. Ravensdown has reviewed the above commentary regarding the legal and planning issues associated with addressing the outstanding issue being how PC 3 should accommodate changes to versions of OVERSEER, and wishes to make the following comments:
 - i. Ravensdown notes the issues raised in the planners’ assessment of the permitted activity provisions (recommended in the planners caucusing statement) when tested against the legal principles for permitted activities (paragraph [98]);
 - ii. Ravensdown’s preferred option (as stated throughout the caucusing) is that fixed limits are deleted from the rules and the regulatory provisions are supported with a clear methodology to address a version change in OVERSEER, including the clearly defined role of the Expert Panel proposed (i.e. a narrative form as recommended in Appendix 2 - 4 of the planners caucusing report);

- iii. Ravensdown notes that no communication has been undertaken with the parties who participated in the caucusing on the provisions now being proposed to address the issue how PC3 should accommodate changes to versions of OVERSEER;
- iv. In principle Ravensdown supports controlled activity status where it assists an activity that cannot meet the permitted activity standards;
- v. However, Ravensdown does not consider the controlled activity provisions proposed to address the issue of how a change in the version of OVERSEER achieves the outcomes being sought;
- vi. In particular, Ravensdown considers the proposed controlled activity provisions, and associated Schedules 29, 30 and 31, add a level of complexity that negates the aim to simplify the rules of PC 3. The reason for this is:
 - It is not clear whether an activity will meet the controlled activity status until after the modelling in the new version of OVERSEER has been undertaken;
 - There may have been an assumption that the new flexibility and maximum caps generated by a new version of OVERSEER would increase across the board meaning allowing for a controlled activity would be beneficial to an activity, but in the remodelled numbers in Schedule 29 (using OVERSEER version 6.2.1) some numbers have gone below those included in the rules meaning providing for a controlled activity is of no use (discretionary activity consent would be required);
 - Even after it has been established the activity is controlled and a consent is applied for/granted, an updated version of OVERSEER may mean the controlled activity status no longer applies, and a discretionary activity consent may be required or the activity may be permitted (again);
 - Schedules 29 and 30 introduce a second set of flexibility and maximum caps modelled with OVERSEER 6.2.1 – these limits will be redundant in the very near future (OVERSEER version 6.2.2 is scheduled for public release on the 23rd May 2016)

meaning there are two sets of nitrogen limits in the plan that may not apply – those included in the rules, and those included in Schedule 29 and 30;

- A plan change would be required to delete the outdated flexibility and maximum caps included in Schedule 29 and 30.
12. Overall Ravensdown considers the methodology recommended to address the issue of how PC 3 should accommodate changes to versions of OVERSEER results in two sets of nitrogen loss limits being locked into the Plan and we submit that will cause confusion to the resource user. Ravensdown also considers the controlled activity status proposed will not necessarily assist a farming activity that is unable to meet the permitted activity standards of the rules, and instead brings another level of complexity to the provisions.
 13. Ravensdown prefers the option proposed in the Planners Caucusing Report to keep the nitrogen loss limits outside the plan and include a methodology to update these number when new versions of OVERSEER are introduced.
 14. Ravensdown appreciates the Hearings Panel providing it with an opportunity to raise the above points.

Shaun Burkett

Environmental Policy Manager for Ravensdown Limited

29 April 2016