

Hearing Statement

23 August 2016

TO:
Canterbury Regional Council

ON:
**Plan Change 5,
Canterbury Land and Water Regional
Plan**

BY:
Beef + Lamb New Zealand Ltd



Hearing statement

Introduction

1. My name is Matt Harcombe. I am the Environment Programme Manager for Beef + Lamb New Zealand (B+LNZ).
2. B+LNZ made a submission and further submission on Plan Change 5.
3. B+LNZ is an industry-good body funded under the Commodity Levies Act through a levy paid by producers on all cattle and sheep slaughtered in New Zealand. Its mission is to deliver innovative tools and services to support informed decision making and continuous improvement in market access, product positioning and farming systems.
4. B+LNZ is actively engaged in environment based work at a farm, catchment, region, national and market level.
5. Canterbury is vital to the New Zealand sheep and beef industry, as approximately one quarter of all commercial sheep and beef properties in New Zealand are farmed within the region. In particular, it is important to note, that sheep and beef land use is incredibly varied throughout Canterbury. From a sheep and beef perspective this reflects farmers optimising their market opportunities through growing specialty crops, while still grazing and finishing a variety of stock classes in their farming systems.
6. B+LNZ has an approved Farm Environment Plan for use within the Canterbury region; is committed to helping farmers develop these plans, and most importantly, implement the resulting actions identified to manage contaminant loss from their farm systems. Over 300 farmers have already attended Farm Environment Plan workshops funded and facilitated by B+LNZ.
7. B+LNZ considers that farmer led, farm specific, industry supported initiatives and actions are the most effective method to achieve long term sustainable management of natural resources.
8. B+LNZ has lodged two statements of evidence:
 - a. Mr Andrew Burttt:
 - i. sets out the B+LNZ Sheep and Beef Farm survey and examines how it informs decisions on adopting appropriate narrative thresholds set for intensive winter grazing and irrigation.
 - b. Dr Samuel Dennis:
 - i. Examines the proposed Farm Portal and its interaction with Overseer; and
 - ii. Outlines the importance of nitrogen management flexibility for sheep and beef farmers in the Waitaki catchment and more generally across the region
9. I understand that the panel has no questions for Mr Burttt. However, if any questions do arise during our presentation today, please note that Mr Burttt is in attendance.

10. In addition to the witnesses appearing for B+LNZ, we have supported and wish to adopt the evidence of Mr James Hoban presented on behalf of JG and LM Murchison and Hoban and others. Mr Hoban is contracted to B+LNZ to facilitate Farm Environment Planning workshops. His evidence supports our current approach, helps to outline and understand the motivation for farmers to undertake farm planning; and supports our submissions in respect to schedule 7 and 7A and proposed auditing of farm environment plans.

Purpose of plan change 5

11. Section 1.11 of the s42A report sets out the key outcomes sought in Part A of plan change 5. I have outlined these key outcomes below:
- i. All farming activities operating at Good Management Practice
 - ii. An equitable framework that retains on-farm decision-making flexibility
 - iii. Removing compliance uncertainty associated with OVERSEER® version changes
 - iv. Providing a framework within which regulation is proportionate to risk; and
 - v. Ensuring the nutrient management framework continues to achieve the CLWRP water quality outcomes by maintaining water quality and improving water quality where degraded.
12. B+LNZ's submission, evidence statements, and ongoing interaction with Environment Canterbury supports the intended outcomes sought, as set out above. It is our submission however, that the proposed plan change will not meet these outcomes and is, in some cases, contrary.
13. I want to note at this point the helpful commentary provided in the s42A report that outlines whether or not certain aspects of our and other submissions are "on" the plan change. B+LNZ considers the report reasonably sets out the criteria for when a submission is on the plan change.
14. This commentary in particular relates to our submission entitled grand-parenting and subsequent decision sought to:
- a. withdraw rules 5.43A to 5.59A; and
 - b. undertake a collaborative approach to developing and defining a natural capital approach to the allocation of Nitrogen.

We submit that while the relief sought may not meet the criteria, in particular that people affected by the submission have not had a reasonable opportunity to respond to those changes, but it is our submission that the points made in the submission and the relief sought is critical in respect to whether or not PC5 achieves its desired outcomes.

15. It is our submission, for sheep and beef farmers, that PC5 does not provide an equitable framework, nor does it retain on farm decision making flexibility. That by applying a discharge baseline or a GMP baseline loss rate to a low nitrogen emitting sheep and beef farmer, and by making it difficult to increase above that baseline in many cases throughout the region, PC5 is:
- a. Inequitable;
 - b. stifles flexibility and innovation;
 - c. stifles the ability of farmers to change management practices in response to market changes;
 - d. is not proportionate to their level of Nitrogen risk; and

- e. fails to allow those farmers to focus on farm practices that will result in maintained or improved water quality outcomes.
16. PC5 very admirably seeks to require farmers to adopt good management practices relevant to their farms, seeks to be innovative in the way it applies those requirements and requires farmers to manage their Nitrogen discharge in accordance with those practices. However there is a fundamental step that has not been undertaken, prior to that requirement. That is the development of a fair and equitable way of allocating Nitrogen loads. Our submission on PC5 seeking to address that step, was to ensure that the proposed outcomes of PC5 can be met.
17. To try and address the inequities in the current planning framework created by missing out that step, B+LNZ has sought specific alternate relief throughout Plan Change 5, specifically in getting the narrative thresholds right and providing for N management flexibility that is consistent with the desired outcomes. In its proposed form, the allocation approach underpinning PC5 (that of grand-parenting at current losses) fails sheep and beef farmers throughout the region.
18. The key issues that we wish to cover with you in respect to the plan change and that have been reinforced by the evidence statements of Dr Dennis and Mr Burt, fall under four broad headings:
- a. Narrative permitted activity thresholds;
 - b. Farm portal and good management practice;
 - c. Nitrogen flexibility; and
 - d. Farm environment plans.

Narrative Permitted Activity Thresholds

19. B+LNZ acknowledges that part of the intent of PC5 is potentially realised by introducing an appropriate narrative threshold. This narrative threshold effectively provides a drafting gate that enables Council to more closely assess the potential environmental risk of some farming systems. After many alternatives were considered for these thresholds, winter grazing and irrigation were chosen because they potentially pose a higher risk of nitrogen loss and are a proxy for the intensity of a particular property.
20. The submissions on the thresholds and discussion of them are largely set out on page 71 of the S42A report, where we note that ECan is *"supportive of a change to the permitted activity thresholds... However, is hesitant to make a recommendation at this point, without hearing the evidence of the submitters..."*
21. B+LNZ discusses the intent and some of the issues associated with this approach in page 8 and 9 of our submission. We suggest an amended threshold of 50 ha for winter grazing and 10% of the property, and a similar threshold for irrigation.
22. It is our understanding that in seeking to provide narrative thresholds on the basis of the risk of loss, Council were intending the thresholds to capture the upper 20% of the risk of N discharge. Dr Dennis explores the concept of whether or not this would apply to the top 10% of each of the thresholds in paragraph 54 of his evidence. This is a critical point for you to consider in terms of meeting the intent of the plan change.
23. Mr Burt sets out in the introduction to his evidence, the statistically and historically sound basis for the Sheep and Beef Farm Survey. The Sheep and Beef Farm Survey is a statistically representative survey that has run for over 50 years. The survey shows that approximately 60 percent of farms are likely to be captured by the proposed narrative threshold of 20 ha of winter grazing.

24. In terms of B+LNZ's proposed alternative thresholds for winter grazing, Mr Burttt sets out in his evidence (in Figure 3) that approximately 67% of farms have less than 10% of their total effective area in winter grazing at any one time. When that percentage area is increased to 20% of effective area, 90% of farms would fall within that threshold. On an area basis approximately 20% of farms exceed 50 ha of winter grazed area and around 10% exceed 75 ha of winter grazed area.
25. It is important to note, for clarity, that the Sheep and Beef Farm Survey data, relating to area in winter crop, set out in the evidence of Mr Burttt, does not distinguish between what class of animals graze the area in winter crop. That is, the survey asks for areas planted in winter crop, not how and what animals have grazed them. In exploring the thresholds and to ensure that we were conservative in our estimate of N loss under winter grazing scenarios, Dr Dennis only used Overseer files for his analysis, that were winter crop areas grazed by more than 50% cattle.
26. A critical factor in deciding whether to include both an area threshold and a percentage area, is in the further analysis Mr Burttt provides on page 11 and the subsequent Figures 6, 7, 8, and 9 of his evidence. Mr Burttt explains that the farms within the survey are reflective of the diverse nature of sheep and beef farms in Canterbury. He also talks about the relatively small number of properties on larger Class 1 and 2 farms, which exceed the area threshold for winter feed, where that area of winter feed is critical to the success of their farming business. Dr Dennis also refers to the N risk profile of those different farm classes and usefully splits out high country losses from other farming types to demonstrate that even though the area in winter grazing on those properties may be larger, the overall risk of N loss is still relatively low.
27. B+LNZ also sought in its submissions, to introduce a further drafting gate that would apply an N discharge test to those properties that initially exceeded the narrative thresholds. This is a practical way of applying a flexibility cap throughout the region. It is our submission that the additional test, through the provision of an Overseer file to the farm portal, would provide for a truly effects based test, if the narrative thresholds are initially exceeded. This would allow for the practical implementation of a permitted N threshold for each property, like those adopted in Plan Change 2 and proposed in Plan Change 3.
28. Dr Dennis' evidence usefully provides some scenario analysis of predicted N loss from a range of sheep and beef properties at different Narrative thresholds, paragraphs 53 to 61 in particular. Dr Dennis uses the evidence set out by Mr Burttt to discuss the implications for Nitrogen loss of increasing the thresholds. It is our submission that the evidence supports the adoption of a threshold greater than 50ha or 10% of a property (whichever is greater) for winter grazing on the basis of risk. It is our submission that Dr Dennis evidence also supports the adoption of a numerical permitted activity test, (through the adoption of a permitted N loss threshold in the portal) to determine whether that risk, at a property scale requires management through a resource consent.

Farm Portal and the application of good management practice

29. As highlighted in the S42A report, "*PC5 is strongly based around a functional and workable Farm Portal...*" and that "*the farm portal is adequately robust...*"
30. B+LNZ do not oppose the concept of the portal, as it represents an improvement on the original approach of simply applying look up tables and as it stands is more dynamic, and allows a **bespoke indicator** of N loss at an **estimate** of GMP for a particular property partially reflective of its physical and farm system characteristics.

31. B+LNZ considers that all farms should be operating at Good Management Practice, given that GMP represents what all farmers can reasonably be expected to be doing in their day to day operations. B+LNZ was an active participant in the development of the industry agreed good management practices relating to water quality. B+LNZ stands by the outcomes of that process and is actively promoting the adoption of those practices through comprehensive extension programmes and through our Farm Environment Planning workshops.
32. However it is in the application of the industry agreed good management practices into PC5, schedule 7 and 7A and the proposed approach where we have significant concern.
33. I have already set out in our submission and in respect to Nitrogen allocation that B+LNZ does not support grand-parenting and that B+LNZ does not support the use of or approximation of industry agreed GMPs to grandparent farmers at those losses.
34. GMPs were developed specifically round the management of risk, and the difficulty of translating these into modelling rules that could be applied to an Overseer nutrient budget (or any other modelling) was well recognised. Dr Dennis sets out the issues in respect to the use of Overseer in regulation in paragraphs 8 – 10 of his evidence and goes on to explore how that relates to the portal.
35. It is our view that, like the narrative thresholds, the GMP N loss number generated by the Portal and compared to an actual Overseer file, should serve as an indicator of whether or not that farm requires resource consent or to put it another way, an opportunity for a more detailed discussion through a farm plan as to how that farmer will manage their environmental risk. To that end the portal potentially provides a smart tool to enable farmers to assess where they are at relative to the regulatory requirements of the plan and to do that in an efficient manner. If we return to the outcomes sought for PC 5, using the portal in this way meets objectives 1-4.
36. However, there are a number of issues with the use of the portal, the proxies it uses to try and model good management practice and then how those outputs are proposed to be applied in determining whether or not a particular farming enterprise complies with the plan.
37. It is our submission that whatever proxies are adopted or finally used within the portal, it is not sufficiently robust, nor will it be to provide an assessment, for the purposes of compliance and enforcement, of the requirements of Nitrogen discharge limits or whether a particular farm is meeting good management practice. That can only be achieved by an in depth assessment and working out an individual plan with a particular farmer. That is where there is real concern from farmers in respect to the use of the portal and how it might assume or prescribe what a farmer should or should not be doing in their particular set of circumstances.
38. To outline the current issues with the portal, Dr Dennis, tested the portal with a variety of different sheep and beef farms as well as a number of "other scenarios" in developing his evidence.
39. Dr Dennis also used the portal so he could provide evidence on the modelling proxies. Dr Dennis found that the portal frequently rejected valid overseer files, and that the causes were difficult to identify as discussed in paragraphs 25 – 27 of his evidence. Dr Dennis' experience and expertise is likely to exceed those of the people who the portal is intended for, yet he had considerable trouble using the portal.

40. Dr Dennis also sets out the issues in respect to how the portal attempts to apply good management practice to sheep and beef farming enterprises. He identifies significant issues as set out in paragraphs 28 to 46.
41. B+LNZ has significant concern in respect to the current proxies for both Nitrogen and irrigation, both of which Dr Dennis sets out in his evidence. We support the very useful evidence brought forward in respect to an alternative N proxy, but reiterate that while this may improve how the portal deals with any particular farming enterprise the fundamental issue is in around how this is then applied in implementing and enforcing the plan.
42. The combination of these different experiences provides evidence that the Farm Portal is not 'adequately robust', nor should it be used to determine whether or not a particular farm is meeting its N discharge limit or whether or not it is meeting good management practice. While the portal may be an appropriate tool/ method to make an initial assessment, it is B+LNZ submission that a much more robust way of having that conversation at a farm scale is required. This would take place during the development of an FEP for that property and or the associated consent conditions that were applied if that farmer required a resource consent.
43. We have sought relief throughout our submissions that is focused on introducing appropriate drafting gates for where a consent is required, which would provide a mechanism for engaging directly with farmers in determining where robust on farm approaches can be agreed around how they will take action to manage their environmental risk. The use of the farm portal should be no different and it is our submission that it should only be used in that way.

Nitrogen Flexibility

44. B+LNZ's submission and further submissions seeks the introduction of a region wide and Waitaki catchment approach to providing flexibility in how N is managed for lower risk properties.
45. The basis of the submission was that if the plan proposed to use the allocation of Nitrogen to property level, or to impose a Nitrogen discharge limit, as a method of achieving good water quality, then the allocation method chosen should not be short term in its view of possible land use within the catchment and should allow and promote land use flexibility and transition over an extended period of time to a state where land use within the catchment would be optimised. This approach as proposed by B+LNZ would thereby encourage intensive land use activities on to soils that have the greatest productive capacity, while providing the ability to manage environmental risk.
46. Providing for flexibility in land use is not only important for sheep and beef farmers, it's important for the local community and for the economy. Locking farmers into one land use, influencing property values through N allocation, and making presumptions about future land use through allocation methods will stifle farmers ability and response to what is the best use of that land to grow which product to respond to higher value markets.
47. As I set out in my introductions and in our submissions B+LNZ considers that the basis that the overall approach as proposed in PC5, to allocating Nitrogen, is fundamentally flawed.

48. For the majority of sheep and beef farmers in Canterbury, the N allocation framework is inequitable, will not be effective in achieving improved water quality directly from practice change on those farms and places significant operating constraints on land uses that already have relatively low N losses.
49. It is the submission of B+LNZ that the evidence presented by Dr Dennis strongly supports significant changes to PC5, both at a region wide level and in the Waitaki catchment.
50. We have set out a possible way to achieve this through the introduction of a permitted N threshold into the portal, in addition to the proposed narrative thresholds.
51. The proposal for a flexibility cap would in most cases overcome some of the issues in respect to Overseer use in the plan in the short term, and provide for flexibility of operation on a year to year basis for those properties, without a significant, if any impact on managing total Nitrogen load.
52. Dr Dennis in the remainder of his evidence (paragraph 62 onwards) discusses the potential impact on overall catchment loads as well as the challenges for sheep and beef properties to operate at a fixed discharge limit set on historical land use.
53. B + LNZ submits that this proposal is only making the best of a flawed allocation approach, that will likely result in perverse behaviour, actions and market disturbance. It is our submission that just like the mentality of paint by numbers, stifles creativity in children, so farming by numbers will stifle creativity and innovation by sheep and beef farmers.

Farm Environment Plans

54. Paragraph 4.14 of the officers report sets out that *"FEPs are used as a primary means of identifying and delivering good environmental practice across a range of farming activities, including nutrient loss discharge management, and the efficient and effective use of water for irrigation. The preparation and implementation of FEPs supports the nutrient management framework by ensuring practices implemented on farm to manage nutrient losses are specific to the individual property and adaptable over time"*
55. Every farmer should be identifying and managing their environmental risk, preferably through some form of written plan with recorded actions. We worked with Environment Canterbury to develop a sheep and beef specific farm environment plan that meets the objectives of the land and water plan while providing specific value to sheep and beef farmers and their business planning.
56. B+LNZ continue to evolve and improve its approach to encouraging farmers to develop Farm Environment Plans. Mr Hoban in his evidence sets out the process by which that happens and the numbers of farmers who have attended farm planning workshops over the past two years.
57. The majority of people attended these workshops voluntarily, purely because they wanted to 'front foot' the environmental issues on their property. This approach is much more likely to achieve on ground change compared with those who are 'ticking a regulatory box'.
58. It is our submission that Schedule 7A undermines this powerful voluntary engagement and will redirect our resource away from one of the most valuable tools we have to

affect positive on ground change. We want to encourage the farmers who are undertaking 'permitted activities' to engage fully in the development and implementation of a Farm Environment Plan. We believe that Schedule 7A is a barrier to achieving this.

59. In our submission, we requested that Schedule 7A is withdrawn. Alternately Schedule 7A should be withdrawn and instead provisions should be included which set out appropriate narrative thresholds to identify and prioritise properties which require farm plans.
60. In parallel B+LNZ will continue to work proactively with farmers to encourage the adoption of FEPs as set out in the evidence of Mr Hoban. To that end we support the proposed wording in the officers report in part A (2) of revised schedule 7A, but question whether this provides additional value to the planning process, where minor amendments could be made to existing schedule 7.
61. Of major concern is the proposed audit approach. It appears that it has taken the GMPs and sought to make them into specific activities that can be measured on a yes/no basis, which is completely contrary to the way GMPs were intended. The caveats listed at the front of the industry agreed good management practices (page 6) very clearly state that the guidance is not a requirement for GMP, nor a guide for farmers and growers, and that actions relevant to a particular farm should be determined through a risk assessment and intervention with the most appropriate action.
62. The guidance and examples were to give a flavour of the sort of actions that might be undertaken. It was not exhaustive and represented a composite of the various sectors which would not be applicable to other sectors.
63. FEPs should set out the way the GMPs are being met on a farm, with audit used to confirm or otherwise that the FEP's GMPs are being met. Farm Environment Plans should not become a vehicle for introducing a default method of prescriptive activity based rules that are contrary to the purpose of a farm specific approach to managing risk. Our submission has sought changes throughout the plan change to give effect to this approach to implementing GMP.

Phosphorus Risk Zones

64. I want to briefly reiterate the position outlined in our submission. B+LNZ have sought the deletion of the planning maps relating to Phosphorus risk. It is our understanding that the maps were developed using a desktop exercise based on S-map. Dr Dennis has referred to some of the problems with using S-map in his evidence on Overseer. It is our view that the same imprecision applies to the development and use of the maps in the plan, where requirements are placed on farmers that are not at all related to the actual risk of soil and Phosphorus loss.
65. It is B+LNZ submission that the maps should be withdrawn. We support policies and methods that are based on an assessment of risk but consider that the proposed approach is far too coarse to achieve any improvement in the management of environmental effects.

Conclusions

66. I would like to stress that our submissions, evidence and hearing statements are not to be interpreted as an avoidance of environmental responsibility by farmers, nor an ignorance of the requirement to regulate to achieve behaviour change and to meet

community outcomes for water quality. Farmers are taking actions to manage their environmental risk and they are making decisions every single day that improves the way they identify and manage these risks.

67. There is considerable risk that by over complicating or focusing too much on numerical limits, we compromise farmers' priority setting on things that matter. We support the intent of PC 5 to make sure we can get the right mix to empower farmers to make the right decisions that are appropriate to their unique set of circumstances on their own farms.
68. I want to leave you with some points that are critical to your decision making from sheep and beef farmers perspective.
- i. It is incredibly important that we introduce a fairer approach to Nitrogen allocation in Canterbury, the current approach is driving a social wedge between farmers and within communities.
 - ii. If we model a farm through Overseer and then try and approximate a series of good management practices through further modelling, that will result in anomalies and errors, which might be fine if that's what you use to help you make or inform decisions. As a farmer, if those models determine the future viability of your property, then it is a recipe for disaster.
 - iii. It is actions by farmers on their farms that will make the most difference to water quality – if we cannot achieve that then all the modelling of Nitrogen loss and approximating the impact of good practice to try and achieve it will have been wasted – farm plans tailored to each business and a commitment to act on those will result in change.
 - iv. If we ignore, for a moment, whether or not it is fair or equitable to restrict already low N loss farming systems to their current Nitrogen baseline, this plan change, must provide at the very least, significant flexibility in Nitrogen discharge so that farmers have the confidence to invest in future development and mitigations that will result in real changes to water quality.

ENDS