

UNDER the Resource Management Act 1991

AND in the matter of public hearings on
Proposed Plan Change 1 to the
Hurunui and Waiau River Regional
Plan

MINUTE 5 of the Hearing Commissioners

Introduction

1. On 21 October 2019 and 22 October 2019, we (independent Hearing Commissioners, Ms Sharon McGarry (Chair) and Ms Yvette Couch-Lewis) conducted public hearings to hear submissions on Proposed Plan Change 1 to the Hurunui and Waiau River Regional Plan.
2. During the hearing, we requested that the Rural Advocacy Network (a submitter) provide alternative wording in line with their statements presented at the hearing and the relief sought in relation to proposed Rule 10.1A in Plan Change 1, by 5pm Friday 1 November 2019.
3. On Friday 1 November 2019, we received a request from the Rural Advocacy Network for an extension until 4pm Monday 4 November 2019 to provide alternative wording for proposed Rule 10.1A. We agreed to that extension and the requested alternative wording was received accordingly.
4. The purpose of this Minute is to circulate the Rural Advocacy Network's suggested alternative wording for proposed Rule 10.1A and to give all submitters on Plan Change 1 the opportunity to provide further written comment in relation to whether they support or oppose this suggested alternative wording of the rule.
5. This Minute also sets out the proposed date for reconvening the hearing to hear the Canterbury Regional Council's reporting officers' right of reply to submissions made at the hearing.

Proposed Rule 10.1A

6. The alternative wording of proposed Rule 10.1A provided by the Rural Advocacy Network and copies of their written statements presented at the hearing, are appended to this Minute as **Appendix A**.
7. We direct that the Council's reporting officers and all submitters who wish to comment on whether they support or oppose the Rural Advocacy Network's alternative wording to Rule 10.1A, must to do so by **4pm on Monday 11 November 2019**.
8. We wish to emphasise that any further written comments must be restricted to matters relating to the Rural Advocacy Network's suggested alternative wording to proposed Rule 10.1A (and any consequential changes) only. We will review all further written comments received within the above timeframe, prior to the reconvening the hearing.

Reconvened Hearing for Council's Right of Reply

9. At this stage, the reconvened hearing is set down for **Monday 25 November 2019**. However, once we have reviewed the further written comments received in relation to the submitter's alternative wording for proposed Rule 10.1A, we will confirm the time, date and venue for the reconvened hearing by way of a further Minute.

10. Any information or clarification relating to the proposed plan change or this Minute should be made by email to planhearings@ecan.govt.nz or by phone on 03 365 3828.

A handwritten signature in black ink, appearing to read 'S. McGarry', is positioned above the printed name.

Sharon McGarry
Independent Commissioner (Chair)
On behalf of the Hearing Commissioners
4 November 2019

24 Mina Road,

RD2

Cheviot 7382

4th November 2019

To: Hearing Commissioners for Plan Change 1 to the Hurunui Waiau River Regional Plan.

As requested the following is the rule/policy changes in line with our submission.

1). Rule 10.1A

Replace the current Rule 10.1A and write a rule that reads:

“The use of land for dryland farming that results in a discharge of N or P which may enter water in the Nutrient Management Area shown on Map 4 is a permitted activity.”

2). Policy 5.5

A new policy 5.5 to recognise the need to work with landowners with actions on the ground that deliver freshwater & general environmental outcomes.

To recognise and support the initiatives being undertaken by landholders individually or as part of catchment or primary sector industry groups to undertake activities that maintain, restore or enhance the ecological, mahinga kai, or amenity values of land or waterbodies within the Hurunui, Waiau or Jed catchments or their tributaries, and to encourage and support further initiatives as an effective way to maintain or enhance environmental values in the catchments.

3). Rewrite rule 10.1A, alter Dryland Farming definition & create a new definition for Low Intensity Irrigated Farming.

Our submission was that the 10% rule in its entirety is flawed and this needs to be addressed. Acknowledging that is a wider plan change than what has been notified, what we have outlined below goes part way to address concerns raised in our submission.

Relabel Rule 10.1A as Rule 10.1B and amend it to read:

“The use of land for any Low Intensity Irrigated Farming activity that results in a discharge of N or P which may enter water in the Nutrient Management Area shown on Map 4 is a permitted activity provided that:

a) Either (i) the property is registered in the Farm Portal; or

(ii) the property is subject to a Farmer Collective Agreement; and

b) A Management Plan in accordance with Schedule 6 has been prepared and implemented, and is supplied to the Canterbury Regional Council, on request, to be viewed only. The Canterbury Regional Council will not retain copies of the Management Plan.

Definitions

1. Add a new definition of Dryland Farming that reads:

“Dryland farming means the use of land for a farming activity without the application of irrigation water at any stage in any 12 month period and

- a. the farming activity does not include the farming of more than 25 weaned pigs or more than 6 sows, or the farming of poultry fowl at a stocking rate of more than 10 birds per hectare, up to a maximum of 1000 birds; and*
- b. the farming activity does not include a component where livestock are confined within a hardstand area for the purpose of intensive controlled feeding with the purpose of encouraging high weight gain.*

2. Amend the definition of Low Intensity Farming to read as a new definition:

Low Intensity Irrigated Farming means the use of land for a farming activity, where:

- a. no more than 50ha of part of the property is irrigated and*
- b. the area of the property used for Winter Grazing is less than: i. 10% of the area of the property, for any property between 100 hectares and 1000 hectares in area; or ii. 100 hectares, for any property greater than 1000 hectares in area; and*
- c. the farming activity does not include the farming of more than 25 weaned pigs or more than 6 sows, or the farming of poultry fowl at a stocking rate of more than 10 birds per hectare, up to a maximum of 1000 birds; and*
- d. the farming activity does not include a component where livestock are confined within a hardstand area for the purpose of intensive controlled feeding with the purpose of encouraging high weight gain.*

Jamie McFadden

Rural Advocacy Network

Hurunui Waiau River Regional Plan: Plan Change 1 Dryland Farming hearing 22 October 2019.

Presentation by Rural Advocacy Network.

(1) Successful approach to Farm Plans in Hurunui.

Farmers have been addressing water quality & other environmental issues for the past 50 years.

Prior to Regional Councils we had Catchment Boards. Farm plans were an integral part of the Catchment Board system. Many farmers still retain their 40 – 50 year old Catchment Board plans with a sense of pride & good memories. These tailor made farm plans were hugely successful built on a partnership based on trust & respect. As you travel through the farmland of Cheviot view the extensive erosion plantings, native bush areas, QEII Trust covenants, wetlands, agroforestry – all testimony to the success of the Catchment Board system.

The Catchment Board system & advisors were carried across to the newly formed Canterbury Regional Council in 1989 under a new name Resource Care. The huge uptake by farmers of environmental initiatives continued.

In 2011 with the arrival of Commissioners to ECan the Resource Care system was disestablished & a greater focus on regulation in its place. All of the original Catchment Board & Resource Care staff have since left ECan disenfranchised with this new regulatory model that lost all the goodwill & positive momentum built up over 50 + years.

Today's ECan mandated farm plans are not held in the same high regard as in the Catchment Board days. In fact for many farmers they are seen as a pain in the backside, increasingly complex, bogged down in minute detail. A tick box process to cross off the list. Another layer of cost that reduces the amount of budget available for environmental actions on the ground. With the increasing failure of the regulated approach to Farm Plans many are now recognising the need to establish a holistic model for the future that is once again built on trust & respect & empowers landowners to continue the positive behaviour change.

It is our submission that mandatory ECan prescribed Farms Plans are not appropriate or justified & will not be effective for the dryland farming community.

ECan & some submitters would have you believe that if dryland farmers were not regulated then environmental issues would worsen. This is not backed up by what we see today – hundreds of farmers fencing & planting waterways & wetlands, more native bush areas being retired, a significant increase in farmers undertaking erosion control initiatives, farmer led groups – Catchment Groups, Farm Discussion Groups, the Hurunui District Landcare Group & Hurunui Biodiversity Trust. All of these actions delivering water quality benefits. ECan would gain so much more positive environmental outcomes by working positively with these groups rather than forcing objectionable & unjustified requirements onto dryland farmers.

(2) THE SOCIAL COST

One of the 4 cornerstones of Part 2, Section 5 of the RMA is social wellbeing. ECans poor planning systems have come at a huge cost to the social wellbeing of our district. This remains a principal concern of ours & it adversely affects the mental well being of many in our community. Not only are environmentalists pitted against farmers but farmers against farmers – irrigator verses dryland, dairy verses dryland, dryland verses dryland. All of this because of a flawed planning system that continues to be perpetuated with Plan Change 1.

Jeff Wilkinson to speak on this subject. (attached)

Winton outlining some historical context of the HWRRP including that the original purpose wasn't to capture dryland farmers into any regulatory/mandatory requirements. (attached)

Referring to our submission

3. It is critical that you as Hearing Commissioners & decision makers understand the current relationship between ECan & the rural community as this relationship has a huge bearing on the effectiveness of any plan. Highlight how bad the situation with ECan is. Trust of ECan is at an all time low. Many farmers feel under siege from ECan & those captured under consents live in a constant climate of fear.

6. We note the submission by Aotearoa New Zealand Fine Wines Estate LP is compelling evidence that the flaws of the 10% rule are not being properly addressed by Plan Change 1. This reinforces our claim that low emitting irrigators remain unfairly & unjustifiably constrained & penalised by PC1.

10 – 12 Farm Plans. Reinforce at 12 about thresholds.

The requirement to have an ECan prescribed mandatory farm plan in itself does not deliver any freshwater quality benefit. The real power of Farm Plans is whether they are used & how they are used. Combined with good advice they can be a very useful tool to achieving many water quality benefits.

* Explain how many of the dryland farmers are low labour resource systems (often just the farmer) & any mandatory requirements such as Farm Plans & Portal add to an already significant & disproportionate burden being placed on these farmers. Most unfair given the negligible impact these farms have on freshwater.

* reference the extent of regulations already applying to dryland farmers & the range of positive environmental initiatives.

We note concerns articulated in the evidence of Lionel Hume for Federated Farmers clauses 17 & 18 about the information sensitivities with the portal & management plans. Our view is that when a management plan is referenced as a requirement in any regional plan that management plan becomes accessible by the Regional Council. For example someone could complain about mahinga kai, winter grazing, wetlands or any of the many other aspects required to be covered by the management plan. In effect all those aspects listed in the management plan become conditions of a consent. This is an unjustified imposition on activities that have been widely acknowledged as having insignificant effects on water quality.

It appears the reason ECan are seeking mandatory management plans on dryland farmers is for addressing the issue of winter grazing. At clause 168 of the officers report is the following statement - *"It would be unlikely Plan Change 1 could be the most appropriate way of achieving the Objectives of the HWRRP or as giving effect to the Objectives and Policies the NPS-FM if winter grazing is provided for as a permitted activity with no requirement to actively manage the risk of run-off contamination of water."* This is consistent with the reason that ECan councillors gave when visiting our area earlier this year. We acknowledge that winter grazing if done poorly on a large scale can cause adverse effects. The issue of winter grazing was well traversed during Plan Change 5. Acknowledging dryland farmings insignificant effect on water quality & the fact that the effects

of winter grazing vary hugely depending on many factors - soil type, rainfall, the river catchment we & other farming industry groups accepted threshold levels for winter grazing on dryland farms. As outlined in our submission if the concern or the principle concern with dryland farming is winter grazing then the discussion should focus on the appropriate thresholds not simply requiring everyone to have a management plan that covers many other activities not just winter grazing.

17 – 18 Mahinga kai

Making the incorporation of Mahinga kai into farm plans mandatory is one sure way to devalue the concept of mahinga kai. Witness how counterproductive the mapping & regulating SNAs in Hurunui has been. More recently Mataitai customary fishing reserves gazetted in Hurunui & Kaikoura districts have seen an outcry from landowners with legal action imminent. Much of the work i do in my private work is of huge benefit to mahinga kai.

Conclude with quote from “It’s Everybody’s Business: Whole Farm Plans”, AgResearch October 2016 for Horizons Regional Council

Throughout all the interviews (of both hill and dairy farmers) the importance of Field Officers, or knowledge-brokers, was repeatedly highlighted as playing a vital role in relationship building and engagement with farmers. Such relationships, based on trust, are recognised by farmers, as crucial both in introducing plans to farmers and in the implementation of these plans. This suggests a central role for Field Officers working with farmers to realise the longterm potential of Environmental Plans as vehicles to implement policy, and generate regional growth.

end

Presentation to hearings for Plan Change 1 of Hurunui Waiau River Regional Plan.

By: Jeff Wilkinson for Rural Advocacy Network

I would like to talk to you about the Human factor in these plan changes and new rules, riverbed lines etc.

For every action there is a reaction good or bad, and here is where nowhere in the process dose it appear the governance or planners quantify the reaction in regards the human response to what they do.

We live in a world where every organisation is trying to eliminate bullying, intimidation and stand over tactics.

Environment Canterbury is at present guilty of all of these, dealing with some issues in rural Canterbury.

When these rules, mapping, occur the impact can be quite severe.

The mental strain for these decisions lands on those directly affected on the ground, Those driving these plans, rules, mapping etc go home and get on with their lives at the end of the day, while those affected live with these issues 24/7.

I can give you several examples of rural residents feeling these mental stresses.

A farmer approached me on Saturday told of how he had been farming for 43 years through droughts, snow storms, bad financial years, earthquakes, but for him the most stressed he has ever been is dealing with ecan with his farming. (Insidently he is an outstanding farmer with very good land management practices)

He now has got to the situation of banning ecan from his entering his property, and this is becoming a common theme with landowners throughout hurunui.

With these plan changes or riverbed lines meetings, it is virtually impossible to get change on these for those directly affected, as the meetings are generally filled with members of the public that have no ties to the land affected physically, mentally or financially,

We have had several meetings onsite with our group, with Ecan Commissioners, planners, and elected members and quiet frankly all of our discussions seem to have fallen on deaf ears, to the point where I feel it no longer is worth our time.

As Jamie mentioned, we had a great system in the 80s and 90s with the Catchment Board. We had Phil McQuigan, as their representative a very highly respected man in North Canterbury, whom was welcomed onto any property. he personally came with ideas and worked with the landowners with great success.

I am not saying that the general public should not have input into these plans etc,

all i am asking is that ecan show some respect and if they are going to affect people with what they do, at least have the curtesy of talking to those directly affected first.

Main Points:

1/ As a foundation member of the Hurunui-Waiaru Zone Committee, I can vouch that it was never intended to capture dryland farming in the 10% rule.

The focus of the CWMS in the early stages was about water, not land use per-se.

10% was about containing the effects of 'intensive irrigation farming', but allowing for some flexibility to work with nature and issues outside the control of the farmer.

There were studies presented to the ZC, (Brown Study) after the effects of the Plan became apparent that even cumulatively, dryland farming did not pose a risk greater than Minor, the RMA test.

2/ Dry land farming is just that, attempts through this plan to define it further is bound to create unjustifiable costs (farm plans etc) and further unintended consequences.

Intensification of a dry land farm would inevitably invoke a consent process that would take care of the intensification issue.

3/ Sedimentation and phosphate are routinely attributed to dryland farming, most likely because dryland farming takes in hill and high country properties where natural processes are hugely responsible for sedimentation. We are told by experts that the majority of phosphate is carried by sediment.

Putting restrictions on these properties will not change the cause of natural sedimentation. However Catchment Board type plans, not environmental plans, would work with and encourage farmers to do work that could reduce natural sedimentation on their properties.

4/ Right through this traumatic saga, which pitted my community's dryland farmers against intensive irrigating farmers through many large and acrimonious meetings, and the countless circular discussion in the ZC, I can't see how this proposed plan change will remove the injustice to dryland farmers, or deal with high polluting land use.

The Regional Council and other submitters have given no justification to impose this definition of a Permitted Activity status on these low impact land uses.

I do know that the Regional Council is determined to capture all producers into a regulatory system. (Stated by senior Managers and Chair)

Much of the content of this Plan Change was 'opportunistic' by Ecan, it is not true that there was agreement in the Zone Committee, or Farmer groups, in fact there was much dissention.

Once captured in this Plan Change, incremental stronger regulatory requirements will undoubtedly follow, harming food and fibre production without any demonstrated benefit to the environment.

5/ It will not be lost on the Panel the similarities with the Fresh Water NPS, and the unacceptable issue of Grandfathering.

There is no logic in creating Rules and Plans that encourage and protect highly polluting land use, as opposed to permitting and encouraging low intensity land use.

This runs counter to all the intent of a raft of current work to improve environmental outcomes, brings no significant environmental benefits and adversely affects food production and the economy.

Summary of Key issues;

1/ This Plan change was asked for by my community to remove the inequity of the 10% issue on Dry land producers

2/ Dry Land Farming is exactly that, farming without irrigation.

3/ Intensification by increased stock numbers is theoretical and not proven by Ecan officers.

4/ Stock numbers are dictated by a drought prone climate in these catchments, with widely fluctuating stock numbers according to weather conditions.

5/ Further to the above, winter grazing is a red herring, the vast majority of stock are wintered within the same catchment. A dry Land farm can only grow the dry matter allowed by climatic conditions, not a theoretical increase.

6/ Any intensification will automatically require a consent, eg. Irrigation, feed lotting, Poultry etc.

7/ Natural Justice and the RMA demands that NO Rules apply to 'Dry Land Farming'

8/ On partially irrigated farms, only the irrigated portion should be covered by a consent and rules, the balance Dry Land must be able to operate as a permitted activity without rules.

There is no justification to include the entire farm if only a portion is irrigated, the Dry Land balance cannot cause intensified pollution more than minor.

9/ As discussed at the hearing, the risk to the environment is extremely low to allow Dry Land Farming without Rules.

10/ The current great Environmental progress and Land Owner enthusiasm is at great risk if the numerous voluntary initiatives as described at the hearing are over-ridden with unnecessary regulation.