

BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of proposed Plan Change 2 for the One Plan

JOINT WITNESS STATEMENT OF EXPERTS

PLANNING

29 July 2020

INTRODUCTION

1. This joint witness statement relates to expert conferencing on the topic of Resource Management Act Planning.
2. This joint witness statement relates to proposed Plan Change 2 (**PC2**) of the One Plan by examining the policy framework proposed by PC2, considering potential refinements to the changes proposed by PC2 arising out of submissions, and considering the implications of the proposed amendments and any refinements in terms of section 32 of the Resource Management Act 1991 (the "**Act**").
3. The expert conferencing was held on 29 July 2020 at Palmerston North. The experts have agreed to resume conferencing on 20th August 2020.
4. Attendees at the conference were:
 - (a) Gerard Willis;
 - ~~(b) Natasha Hayward;~~
 - (c) Christine Foster;
 - (d) Vance Hodgson;
 - (e) Nic Conland;
 - (f) Chris Keenan;
 - (g) Carmen Taylor;
 - (h) Peter Wilson;
 - (i) Angus Gray;
 - (j) Cynthia Ward;
 - (k) Greg Carlyon;
 - (l) Paula Hunter;
 - (m) Melaina Voss;
 - (n) Siobhan Karaitiana; and
 - (o) Abbie Fowler.

CODE OF CONDUCT

5. We confirm that we have read the Environment Court Practice Note 2014, and in particular Appendix 3 – Protocol for Expert Witness Conferences, and agree to abide by it.

PURPOSE AND SCOPE OF CONFERENCING

6. The purpose of conferencing was to identify, discuss and highlight points of agreement and disagreement on planning issues arising from PC2 under the Act, and the submissions received on the proposed plan change.
7. In addition, questions arising from pre-hearing meetings between submitters and Horizons have been circulated for our consideration as part of conferencing. We have addressed those relevant to our areas of expertise.
8. The scope of the issues covered at this conference included:
 - (a) RMA Planning.

KEY FACTS AND ASSUMPTIONS

9. None

METHODOLOGIES AND STANDARDS

10. None

AGREED ISSUES

11. Refer to Annexure A.

DISAGREEMENT AND REASONS

12. Refer to Annexure A.

PRIMARY DATA


- Horizons Regional Council Operative One Plan
- Horizons Regional Council (2016), Policy Evaluation Report: Freshwater Quality (17p);
- Environment Court Declaration 2017
- s. 35 Evaluation Report 2018
- Ellis Gould Independent legal advice for MfE 2018
- Horizons Regional Council (2018), Horticulture Problem Definition (5p);
- Horizons Regional Council (12 Dec 2017), Environment Committee Annex A Science & Innovation Activity (32p);
- Horizons Regional Council (2013), 2013 State of Environment (100p);

- Dr J Roygard on behalf of Horizons Regional Council (undated), section 42A report (217p);
- Enfocus Ltd and Hill Young Cooper Ltd (12 October 2017), Draft report on Options to Change Nutrient Management Provisions of One Plan (6p);
- van Voorthuysen Environmental Ltd (29 June 2017), One Plan – intensive farming land use activities.
- Enfocus Ltd (July 2017), Planning Opinion on consenting pathways for intensive farming: Horizons One Plan (9p);
- Enfocus Ltd (June 2017), Options for Change: One Plan Post Declaration;
- Horizons Regional Council (14 November 2017), Strategy and Policy Committee meeting notes, report 17-220.
- Enfocus Ltd (May 2017), Implications of the Environment Court’s declaration on One Plan implementation (14p);
- The AgriBusiness Group (October 2017), Farm Scale Economic Impact Analysis of One Plan Intensive Land Use Provisions (23p);
- Landcare Research (May 2016), Impact of the Horizons One Plan on farmers and the agricultural community (38p);
- KapAg Ltd (01/01/2018), An impact assessment of One Plan policies and rules on farming systems in the Tararua District and the Manawatu Wanganui Region (91p);
- KapAg Ltd (2015), Selecting farm practices and preparing farm plans for land-use consents in the Manawatu-Wanganui region (9p);
- KapAg Ltd (March 2018), Selecting representative dairy farms for the upper Manawatu River catchment (37p);
- KapAg Ltd (May 2018), A comparison of changes to nitrogen loss allowances on dairy in the upper Manawatu River catchment (50p);
- GSL Diagnostic (30 June 2016), The feasibility of nutrient leaching reductions (N leaching) within the constraints of minimum impact on the profitability and production of five dairy farms in the Horizons Region (45p);
- Massey University (February 2018) Sensitivity of values in Table 14.2 of the ‘One Plan’ to a change in the version of OVERSEER® (40p);
- Statutory Acknowledgements;
- Treaty Settlement Documents;
- All available JWSs and Appendices;
- Horizons Regional Council PC 2 S. 32 Report

RESERVATIONS

13. None

Date: 29 July 2020




 Gerard Willis

~~Natasha Hayward~~



Christine Foster



Vance Hodgson



Nic Conland




Chris Keenan



Carmen Taylor



Peter Wilson




Angus Gray




Cynthia Ward



Greg Carlyon



Paula Hunter



Melania Voss

Melania



Siobhan Karaitiana



Abbie Fowler

ANNEXURE A

In the matter of Proposed Plan Change 2

Expert conferencing – Resource Management Act Planning

Participants: Gerard Willis, Peter Wilson, Angus Gray, Cynthia Ward, Vance Hodgson, Greg Carlyon, Paula Hunter, , Chris Keenan, Siobhan, Karaitiana, Carmen Tayler, Christine Foster, Abbie Fowler Nic Conland (departed at 4.00 p.m. following Question 8 and before Question 9), Melaina Voss (departed at 5.00 p.m., during discussion around Question 12)

	Issue	Statements	Agreed Position	Disagreements, with reasons
1	What is the relevant RMA policy framework for evaluation of PC2 (including higher order planning documents and the One Plan)?	<p>Give effect to:</p> <p>Part 2 Section 32: S.5, informed by 6,7,8</p> <p>CF: The purpose of PC2 and the objectives of the One Plan, to the extent that they are unchanged by PC2 and relevant to PC2 Regional policy statement, are unchanged by the plan change 32 (3 & 6).</p> <p>Obj 5-1, 5-2</p> <p>Regional Plan Objective 12-1, 12-2, 13-1, 14-1</p> <p>RPS Obj 2-1, 3-1, 4-1, 4-2</p> <p>2005 NES for human drinking water</p> <p>2017 NPS-FM – objectives and policies, all those that are within the scope of PC2.</p> <p>NZCPS to the extent that they are relevant to PC2 and the coastal environment.</p> <p>Obj 1 (Water Quality, biological processes and resilience)</p> <p>Obj 3 (Treaty of Waitangi)</p> <p>Obj 6 (Coastal resources should not be compromised by activities on land)</p>	<p>Not all experts present have reviewed non RMA documents as highlighted or formed an opinion and agree that the weighting and requirements of them need to be considered further.</p> <p>All agreed that these One Plan objectives are relevant. Some experts consider that there are others that are relevant and will be presented in evidence.</p>	<p>SK: I have concerns about the way that HRC undertook their assessment of S 6, 7 & 8.</p>

		<p>Pol 2 (The Treaty of Waitangi Tangata and Maori heritage).</p> <p>Pol 3 (Precautionary approach)</p> <p>Pol 4 (Integration)</p> <p>Pol 5 (Land or Waters held under other acts)</p> <p>Pol 21 (Enhancement of water quality)</p> <p>Pol 22 (reducing sources of sedimentation)</p> <p>Must take into account: Relevant Iwi management plans</p> <p>Must not be inconsistent with: Water Conservation Order Rangitikei River 2003</p> <p>Must consider: Te Awa Tupua Settlement Act 2017 Rangitane O Manawatu Settlement Act. Any other treaty settlement legislation.</p> <p>Statutory instruments separate from the RMA, that need to be considered: Manawatu Rivers Leaders Forum Accord Lake Horowhenua Accord</p> <p>Other relevant considerations: 2020 NPS Urban development (Due to timing in relation to notification of PC2). Noting that it has replaced 2016 NPS Urban Development The Reserves and Other Lands Disposal Act 1956 (relevant in regards to iwi and their relationship with Lake Horowhenua and land.</p>		
	<p>What is the impact of the proposed 2020 NPS-FM and NES-FM amendments?</p>	<p>Until the documents are enacted and gazetted, they have no effect.</p>	<p>All agreed.</p> <p>Experts have agreed to offer further caucusing on the implications of any</p>	

		When they are available, regard will need to be given to them.	relevant NPS, NES and regulation changes, if or when they become available during the process.	
2	<p>What is the correct approach for s.32 evaluation of PC2?</p> <p>What is the relevant baseline for comparative purposes?</p> <p>What are the relevant considerations?</p>	<p>Analysis for reasonably practicable options and comparative costs and benefits of those options, in terms of what is the most appropriate way of achieving objectives and purposes s32.(1) (a) and (b) examine whether the provisions are the most appropriate way to achieve the objectives (purpose of PC2 plus existing plan).</p> <p>The baseline is considered to be status quo One Plan unchanged with the assumption of enforcement.</p> <p>All agreed that there is a scenario from the baseline that needs to be considered. This involves a continuation of One Plan and recent implementation.</p>	All agreed.	
3	Noting that some submissions raised concerns about the adequacy of pre-notification consultation, what are the relevant requirements under the RMA?	<p>Schedule 1 Clause 3, 3A, 3B & 4A</p> <p>These require consultation with local authorities and iwi authorities.</p>	<p>All agreed.</p> <p>GC identified concern that the issues raised in this regard have been a matter of public record for some time and have not been responded to.</p>	
4	How have statutory acknowledgements in Treaty Settlements been considered and addressed within PC2?	By reference, through a link in s32 report, but not discussed.		
5	On what basis is irrigation excluded from the list of intensive land uses in Policy 14-5 (a)?	This question has been removed.		

6	<p>What is the relationship between Table 14.2 and the relevant values and attributes within Schedules B and E of the One Plan?</p>	<p>Table 14.2 was and is intended to provide a contribution towards achieving the values and outcomes of schedules B & E.</p> <p>It was not anticipated that compliance with Table 14.2 on an individual farm basis and even on a catchment wide basis on its own would achieve the relevant values and attributes within Schedules B and E of the One Plan.</p> <p>It is generally not possible at the enterprise scale, for a consent applicant to demonstrate the direct impact of their activity on the relevant values and attributes within Schedules B & E at a catchment scale.</p> <p>Iwi will have the opportunity to consider how their values may be affected, at the time of a consent application, as per the deed of settlement.</p>	All agreed.	
7	<p>Should discharges of treated municipal wastewater to land be subject to the intensive farming provisions of the One Plan?</p>	<p>They are not. They are captured by Rule 14-30.</p>	All agreed.	

8	Should intensive farming land use associated with the irrigation of treated municipal wastewater to land be subject to the intensive farming provisions of the One Plan?	<p>CF considers that they should.</p> <p>PH: It should be excluded because there are opportunities through the discharge application to consider the land use issues.</p> <p>PH: Also does not consider that the land use is extremely difficult to consent if it is an IFLU and if it is required to meet Table 14.2 and GMP.</p> <p>GW considers that they should be regulated, but not necessarily by requiring compliance through Table 14.2.</p> <p>Experts consider that this raised the question of scope and note that the question of scope is to be determined.</p>	<p>All except, PH, AF, CW & MV agree</p> <p>AF, and MV agree.</p> <p>All agreed</p> <p>All agreed except GC</p> <p>All agreed.</p>	<p>CF does not consider that exemption for new activities is within the scope of PC2.</p> <p>Everyone else disagrees and CW reserves her opinion.</p> <p>GC has not expressed a view on these matters</p> <p>NC to Farm Systems Experts: Is it possible to adjust your farm system to enable irrigation with municipal wastewater and be able to be consented?</p> <p>AF to Farm Systems Experts: Is it possible to adjust your farm system to enable irrigation with industrial waste water and to be consented?</p>
9	Noting that specific alternative regulatory approaches were signalled in some submissions: what are the primary alternatives available and what are their relative merits, in terms of s.32, compared with PC2?	<p>To be discussed on Day 2.</p> <p>CF will circulate her responses to submissions and written responses may be submitted before then.</p>		

10	<p>What refinements could be made to the PC2 policies and rules to address issues raised by submissions? (please identify the submission points that provide the scope for any proposed amendments)?</p>	Deferred to Day 2		
11	<p>Does PC2 provide sufficient guidance on the extent of exceedance of Table 14.2 that will be acceptable for those IFLU activities that seek resource consent to exceed Table 14.2?</p> <p>If not, how could PC2 be refined to better guide or limit exceedance of Table 14.2?</p>	<p>CF: No it doesn't provide guidance.</p> <p>Deferred to Day 2</p>	All agreed	
12	<p>What impact does the requirement that all regional councils must, by 2024, publicly notify plan changes to give effect to the revised NPS-FM have on the implementation of PC2? In particular, are there any implications in terms</p>	This question is still being workshopped and is not complete.		

	of consent durations or consent review requirements?			
13	How are cumulative effects of individual INFLUs assessed and managed under PC2?	This question is still being workshopped and is not complete.		
14	What should be the minimum and maximum information requirements for applications for consent under PC2?			
15	What should be the minimum and maximum information requirements for applications for consent under PC2?			
16	How should the impact of regulation under PC2 (and the implementation of GMPs and BMPs required under the PC2 consent framework) be monitored and measured? And over what time frame?			
17	Given that all IFLUs in targeted water management zones have been required to			

	secure consents since 2014, what time frame is reasonable for lodging applications for consent under PC2?			
18	How can future Overseer FM version updates be accommodated within the PC2 rule framework?			
19	What are the merits and disadvantages of including a list of agreed minimum management practices in the proposed definition of 'good management practices'?			
20	Noting the Government's intention to introduce regulation to require 'freshwater farm plans' for intensive farming activities, how would the nutrient management plans required under the One Plan (and required by PC2) be integrated with 'freshwater farm plans'? Will it be necessary to change the name or content of			

	<p>nutrient management plans required by PC2? Pre-hearing meeting discussions identified six potential uses for the Overseer FM farm systems modelling tool:</p> <ul style="list-style-type: none"> (a) As a tool for calculating (permitted activity) limits in a Plan; (b) As a tool to set threshold for activity status in a Plan; (c) As a monitoring tool for compliance monitoring and enforcement; (d) As an information tool to test the efficacy of on-farm system changes to inform adaptive management (i.e. a decision support tool); 			
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	<p>(e) As an allocation tool for allocating individual shares of N or P contributed to the catchment;</p> <p>(f) Related to (e) above: as a basis for establishing a trading mechanism for N contamination 'rights'.</p> <p>Do the experts agree that these are valid uses of Overseer FM?</p>			
21	<p>What should be included, as a minimum, in the nutrient management plan accompanying applications for consent for each of the listed intensive farming land use activities? Is there an appropriate nutrient management plan template available that could be adopted?</p>			