

BEFORE THE ENVIRONMENT COURT

IN THE MATTER OF

appeals under clause 14 of the First Schedule to the Resource Management Act 1991 concerning Proposed One Plan for the Manawatu-Wanganui Region

**FEDERATED FARMERS OF
NEW ZEALAND ENV-2010-
WLG-000148**

AND

**MINISTER OF
CONSERVATION ENV-2010-
WLG-000150**

AND

**HORTICULTURE NEW
ZEALAND ENV-2010-WLG-
000155**

AND

**WELLINGTON FISH & GAME
COUNCIL ENV-2010-WLG-
000157**

Appellants

AND

**MANAWATU-WANGANUI
REGIONAL COUNCIL**

Respondent

**STATEMENT OF EVIDENCE IN REPLY OF SHANE ALEXANDER HARTLEY ON
THE TOPIC OF SUSTAINABLE LAND USE AND ACCELERATED EROSION ON
BEHALF OF FEDERATED FARMERS**

3 April 2012

1.0 INTRODUCTION

1.1 My name is Shane Alexander Hartley. I have the qualifications and experience set out in my evidence in chief, dated 17 February 2012.

1.2 My further evidence is in respect of the outstanding matters following planner conferencing held on 13 March 2012 and in particular, the two main issues I addressed in my evidence-in-chief which were;

(a) The activity status of land disturbance, and

(b) setbacks from streams, lakes and wetlands for land disturbance.

1.3 In other respects, Federated Farmers was of the opinion that the DV POP provisions for land disturbance in Chapters 5 and 12 are acceptable, and I focussed on the specific issues described above. However, at the Planner Conferencing that occurred on 13 March 2012, other related issues were discussed, as is summarised in the planning conference record dated 26 March 2012.

1.4 I address the key outstanding matters discussed in conferencing that were either not agreed or were agreed to be set aside until more information became available.

A link between the Objective 5-1, Policy 5-1 and Policy 5-2A in regard to reducing sedimentation.

1.5 I maintain my position as set out in the Conference Record that it is inappropriate to make direct cross-references in Objective 5-1 to specific water management objectives and policies in Chapter 6.

1.6 The objectives and policies of Chapter 6 have still not been confirmed as they remain subject to appeal and the consequences of any cross-referencing remain unclear. But in any case, Objective 5-1 and Policy 5-1 are clearly focused on engagement and co-operative management of hill country land areas between landowners and Council.

1.7 A key component of this approach is a voluntary farm-wide sustainable management land practices, reporting on the information on a biennial basis, and reviewing the effectiveness of voluntary management plans. In this regard, reference to

potentially very specific water quality objectives and standards is inappropriate in this context.

Appropriate set backs from water bodies and Horticulture Code of Practice

- 1.8 Agreement was not reached about the appropriate setback of land disturbance and vegetation clearance from the beds of rivers and lakes (noting that there was agreement that a 10m setback was appropriate for sensitive sites such as wetlands as defined in schedule E, and sites valued for trout spawning and sites of significance aquatic as defined in schedule AB¹).
- 1.9 I maintain my view that a 5m setback from other watercourses is appropriate in other circumstances and that any greater setback is likely to be an inefficient use of the rural productive land resource, and likely to be of a minimal additional environmental benefit.
- 1.10 I acknowledge that there are differing technical expert opinions in relation to appropriate setbacks, but that there is a general consensus that riparian buffers are an effective erosion sediment control measure, and it is agreed that more than one measure would normally be used in any comprehensive approach². There is also technical consensus that measures “ ... *might include but are not limited to treatment wetlands, bunds, benched headlands, contour drains, livestock pugging management, and retaining grassed ephemeral waterways*”³.
- 1.11 I am further persuaded by Dr McConchie's rebuttal evidence in this regard - he states that “*Riparian margins are only potentially effective sediment traps where there is overland flow of water and sediment. Where flow is channelized, a riparian buffer is completely ineffective; irrespective of its width*”⁴.
- 1.12 Dr McConchie's description of the positions that the various technical experts have on an appropriate setback simply highlights the difficulty in fixing a particular measure; however, I remain of the view that 5m seems to be no less effective than a

¹ Key question/matter 8; Record of Planner Conferencing on Sustainable Land Use and Accelerated Erosion; 26 March 2012.

² Key question/matter 18; Record of Further Technical Conferencing on Sustainable Land Use and Accelerated Erosion; March 2012

³ Key question/matter 19; Record of Further Technical Conferencing on Sustainable Land Use and Accelerated Erosion; March 2012

⁴ Para 17, Dr McConchie, Statement of Evidence in Rebuttal; 30 March 2012

wider setback in regard to its main value of filtering overland flow (which seems not to be in dispute amongst the technical experts). It also appears equally, if not more, important that other treatment measures are instituted in specific site circumstances.

- 1.13 I also cannot help but conclude that the application of a 10m setback may well be a rather blunt instrument, and one with adverse economic effects in terms of the land lost to farm production and effective management, and little or no additional significant water quality benefits.
- 1.14 The technical experts have also supported (in general terms) the possible application of the Horticultural code of practice, subject to a further development and technical guidance⁵. Dr McConchie also notes the value of codes of practice “ ... *to ensure industry best practice rather than regulation*”⁶. I consider that the use of such a code is appropriate as a management tool, but believe that it needs to be confirmed as achieving the Schedule D numeric’s before it could be considered for use as a permitted activity standard.
- 1.15 On the basis of my understanding that the ephemeral water bodies with an active bed (not a grassy or mud bed) are ecologically significant, I accepted in conferencing that a minimum watercourse width for a setback requirement should be 1m.
- 1.16 I am aware that the impact of requiring 5m setbacks from such watercourses may significantly extend the area of land subject to the land disturbance and vegetation control (depending on the number and length of such watercourses).
- 1.17 This may also have implications for the efficient use of farmland and farming activity generally. If it became apparent that active watercourses are in fact ecologically significant only when over 2m in width, then I would support that as the appropriate minimum width.

Area of land disturbance activities

- 1.18 In my evidence-in-chief I expressed the view that the area of 2,500 m² per property per 12 month period for large-scale land

⁵ Key question/matter 15; Record of Further Technical Conferencing on Sustainable Land Use and Accelerated Erosion; March 2012

⁶ Para 48, Dr McConchie, Statement of Evidence in Rebuttal; 30 March 2012

disturbance was a very low threshold for a controlled activity to be triggered. However, in conferencing, all planners generally agreed that a controlled activity status would be appropriate for larger scale earthworks on flat land. The outstanding question was; what is the appropriate area threshold for a controlled activity to be triggered?

- 1.19 One option the planners considered during the refinement of the Conferencing Record was that of a more extensive area being a permitted activity, provided land disturbance is not undertaken on land steeper than 20° and there is no direct discharge of water to watercourses. The Conference Record essentially invites the technical experts to respond with an opinion or opinions as to an appropriate threshold (to which I now suggest could include, “if any”). A related consideration raised in the planner’s conferencing was the extent to which the Wellington Erosion and Sediment Control Guidelines would meet the RMA S70 requirements.
- 1.20 In my opinion, specific technical responses to these questions would greatly assist in determining and confirming whether or not a controlled activity status for land disturbance activities on flatter land is warranted, and if it is, at what scale the threshold should be set?
- 1.21 On reflection, on consideration of the 20° slope planners propose as a threshold; and in the absence (to my knowledge) of an agreed standard by the technical experts, I am of the view that a permitted activity status could be retained on the basis I have outlined above, and with some of the amendments I have addressed in my evidence-in-chief, with the potential addition of references to appropriate erosion and sediment guidelines once they are confirmed as technically acceptable.

Agreed Provisions

- 1.22 Although an amended Chapters 5 and 12 illustrating the agreed and disagreed provisions are well advanced, they have not been finally concluded, and I am not able to attach them to this evidence. I anticipate that they will be able to be circulated well in advance of the Hearing.

Shane Hartley