

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

20 August 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 20 August 2020 at Palmerston North.
4. Attendees at the conference were:
 - (a) Gerard Willis;
 - (b) Christine Foster;
 - (c) Vance Hodgson;
 - (d) Nic Conland;
 - (e) Chris Keenan;
 - (f) Peter Wilson
 - (g) Angus Gray
 - (h) Cynthia Ward
 - (i) Greg Carlyon;
 - (j) Paula Hunter
 - (k) Siobhan Karaitiana; and
 - (l) 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. This joint witness statement follows on from an earlier expert conference between the witnesses on 29 July 2020. 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 previous joint witness statement of 29 July 2020 from the expert conference session on RMA Planning and this JWS are to be read together.
9. The scope of the issues covered at this conference included:
 - (a) RMA Planning

KEY FACTS AND ASSUMPTIONS

10. None

METHODOLOGIES AND STANDARDS

11. None

AGREED ISSUES

12. Refer to Annexure A.

DISAGREEMENT AND REASONS

13. Refer to Annexure A.

PRIMARY DATA

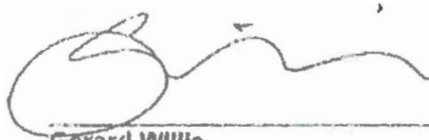
- Horizons Regional Council Operative One Plan
- Horizons Regional Council (2016), Policy Evaluation Report: Freshwater Quality (17);
- Environment Court Declaration 2017
- s. 35 Evaluation Report 2018
- Ellis Gould Independent legal advice for MfE 2018
- Horizons Regional Council (2018), Horticulture 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);
- Enfocust 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.
- Enfocust Ltd (July 2017), Planning Opinion on consenting pathways for intensive farming: Horizons One Plan (9p);
- Enfocust 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.
- Enfocust 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 (91 p);
- 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

None.

Date: 20 August 2020



Gerard Willis



Christine Foster



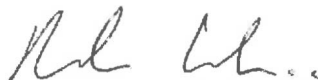
Vance Hodgson



Nic Conland



Chris Keenan



Peter Wilson



Angus Gray



Cynthia Ward



Paula Hunter



Siobhan Karaltiana



Abbie Fowler



ANNEXURE A

In the matter of Proposed Plan Change 2

Expert conferencing – Resource Management Act Planning (Day 2 – 20 August 2020)

Issue	Statements	Agreed Position	Disagreements, with reasons
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	Withdraw PC2 Does not support withdrawal of PC2 CF does not support withdrawal of PC2. The benefits of regulation to reduce N leaching at the earliest opportunity will be further delayed by reverting to the unsatisfactory current situation of ambiguity in the regulatory framework under which the consenting process intended by the One Plan has stagnated. The Horizons N load modelling demonstrates that regulation of existing IFLU activities with PC2 is preferable to no regulation or continued regulatory 'stasis' NC, GC: observes the concerns of the existing regime and would agree to withdraw if it fails to make a difference. VH: withdrawing the plan change would leave unconsented farmers in a vulnerable position for enforcement, as would be required by the Plan. PH, AF: PC2 is an opportunity to address treated wastewater disposal	Agreed by GW, PW, VH, CK, AG	CW: Holds original position to withdraw PPC2, because of inadequate consultation, economic impacts, particularly assessment of macro-economic effects, NPS-FM.

Issue	Statements	Agreed Position	Disagreements, with reasons
	AG, CK: Does not support withdrawing PC2 but there are still significant concerns about the framework, including the mauri of the water quality and the extent of improvements that need to be addressed. SK: A plan change should not progress unless it treats iwi as a treaty partner. PC2 has not fulfilled its treaty obligations. PW: PC2 is a direct result of F&G and other litigation on the failures of the original One Plan, which included implementation and enforcement from Horizons. Water Quality modelling in the region indicates that at best, PC2 will 'hold the line in relation to SIN. It appears that PC2 is a technical fix to allow IFLU farmers to gain consents. CF: PC2 has imperfections and does not seek to address all issues, but support for not withdrawing is predicated on PC2 being an interim measure (prevailing only until the One Plan review, implementing the NPS). GC, SK: The proposition is that PC2 should be withdrawn, but this could change with appropriate engagement with Tangata Whenua prior to the hearing. The Council sought to provide a consenting pathway for IFLU, but failed to consider the impact on the environment. CF: The withdrawal of PC2 would favour IFLU activities that fail to comply with the provisions of the plan. If there are going to be N reduction, they should be achieved within a limited timeframe.	All agreed	

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	Consent timeframes Self-revocation date for plan change / Table 14. A broader base is required to be worked on now. PW: PC2 should only be revoked if further plan change is complete, noting that there is an Act requirement. Remove the Lake Horowhenua catchment from PC2 CF does not support removal of any targeted water management subzone from the Chapter 14 requirements for managing existing IFLU activities. As above, regulation with PC2 is preferable to continued regulatory 'stasis'. NC This would do the opposite to improve the outcomes of the Lake. PC2 is about looking for opportunities to improve the fresh water quality Insert additional water management zones into Table 14.1 and into the Chapter 1 regulatory framework for existing IFLU activities CF These requests are not supported by analysis necessary to support s. 32 evaluation and are better addressed by the forthcoming One Plan catchment reviews. These requests lie beyond the scope of PC2.	All agreed GW	CW staying Neutral as she needs to understand it more fully. GC disagrees. The reason that the Lower Manawatu was left out of the PC2 was left out was because of the poor state that it is in. AG, NC: supports adding additional catchments to improve water quality. SK, PW: supports adding additional catchments to improve water quality, if

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	Insert a separate framework to address land irrigation of treated municipal wastewater (and treated industrial wastewater) CF See Attachment A summary of issues and preliminary conclusion – <i>“Whilst I do not consider the requested exclusions and alternative policy framework are ‘on’ PC2, I agree there is merit in addressing the issue raised by the Councils. I consider that it would be preferable to address the issue by way of a separate plan change process. That would allow the issue to be clearly stated, would allow a fit-for-purpose policy response to be developed and would allow for meaningful dialogue between Horizons, the Councils, iwi and interested further submitters in developing that policy response”.</i>	CK, GW, NC, PW agree	it would go some way to address iwi issues. CF, SK,NC: PC2 is a lost opportunity, not to include other catchments CK supports AG comment, noting Policy 5.7(d). It would only be possible to include extra catchments if evidence could demonstrate that it was within the scope the section 32 , as notified. NC, CK: Commercial drivers will exist for IUFLU in non-targeted water catchments for those activities to seek certainty should other water management zones be included in PC2. PH: The alternative pathway still requires an improvement to meet the tables over time. AF reserves her position, to consider further and will discuss in evidence.

Issue	Statements	Agreed Position	Disagreements, with reasons
	Delete the discretionary activity consenting pathway or require any IFLU activity that exceeds the Table 14.2 CNLM limits to require consent as a non-complying activity CF supports retention of the proposed framework of controlled activity and discretionary activity consent pathways – with modification to enable consenting with meaningful reductions in N leaching at the earliest opportunity. Modifications should include: (a) specificity re expected minimum N reductions; (b) maximum time frames within which N reductions must be achieved; (c) clearer guidance and limits on consent duration (to avoid ‘grandparenting’ N leaching rates that may be superseded by more stringent requirements of the future One Plan review); and (d) a time limit by which applications for consent must be lodged. Discussion: consents should be applied for within a timeframe. Two years from operative date of PC2 has been suggested, but the consent status should not be used punitively. Retain the Policy 5-8 (a) (ii) requirement to ‘achieve the strategies for surface water quality’ CF supports the amendment proposed by PC2. It reflects the practical reality, always intended by the One Plan, that reduction of N leaching loss by IFLU activities will not alone achieve the RPS water quality objectives and policies. Rather, the chapter 14 regulatory framework will contribute towards	All agreed. All agreed	PH, AF, GW, PW, AG, CK, NC, SK, VH, GC SK disagrees, but there is tikanga that should be provided for and this could have (and still could) inform PC2 with appropriate consultation. SK suggests that a shorter time frame is appropriate, subject to information requirements.

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	achievement of those water quality objectives and policies. GW: There still needs to be reference to surface water strategies which will contribute to implementation. Requests to replace Table 14.2 or opposes the recalibrated Table 14.2 values or opposes the reliance of PC2 on the 'LUC approach' CF: PC2 does not propose any amendment to the established One Plan approach for setting CNLM limits in Table 14.2. This approach was settled through the Court hearing processes that preceded the One Plan becoming operative. The purpose of PC2 is highly confined and does not seek to relitigate the fundamental approach to setting CNLMs. It is limited to recalibrating the Table 14.2 values to make them relevant for the current available Overseer modelling tool. LUC approach should not be abandoned in the context of PC2. Can it be abandoned? Not without a replacement framework. There should be an alternative consent pathway for existing and new intensive CVG and would welcome the opportunity to do some further work on this before the hearing.	CF: No, not replaced, but supplemented with alternatives on an interim basis. NC agrees. Don't have the ability to replace the table, but agrees to augmentation. All agreed All agreed VH, GW, CK, NC, agrees to the concept that it is possible to construct a framework, but needs further work. CK, PW: An alternative framework is required given the unique characteristics of the land use activity with	GC disagrees.

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	CF: Some can be controlled pathway, within limits. There is threshold of exceedance that would trigger a discretionary activity, supported by policy considerations. Requests an alternative 90% of baseline or 75th percentile water management zone N leaching limit. CF: Horizons' N load modelling indicates that this alternative approach would potentially result in similar or better SIN outcomes in the targeted water management sub-zones. I support insertion of this approach as an alternative controlled activity consenting pathway, provided applications demonstrate adoption of FMP (and BMP if required) to achieve minimum N leaching reductions. PW: I want to make sure that we are not double counting N losses as captured by OVERSEER modelling assumptions vs additional GMP, as represented in this plan. CK: agrees, as long as it can be demonstrated that the outcome for SIN modelled is reflective of the reductions required. NC agrees, but this isn't the environmental change; it is a change in practice.	respect to rotation, sharing and leasing of land. PW: Needs to be mindful of the overall outcome that is being achieved and complementarity for pastoral sector. Outside expertise of CW All agreed PH, AF – no view on this matter. Outside expertise of CW, SK	

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	Can the definition of 'GMPs' be improved? The Farm System Experts have provided an agreed set of GMPs and BMPs that could be adapted as a menu used in association with the PC2 rules (either within a definition or as a companion guidance document). My preference is inclusion in the One Plan glossary, with clear acknowledgement that these will evolve and will need to be revisited with the One Plan review. The practical reality is that the One Plan review has to commence soon (Council is currently planning that) and has to be completed within approximately 4 years. I question whether the basic GMPs and even some BMPs will actually be superseded within that time frame. There may be additions to the list – which would be an enhancement. Including of a list would enhance certainty for all. SK, GW, CW, NC: GMP and BMP has not fully considered matauranga maori approach. CF, GW: Agrees, but Some GMP and BMP must positively improve mauri. NC: These methods could be considered with regard to matauranga maori in time.	NC, PW, VH, CF, CK, GW: needs a method in the plan that requires a review of the GMP and BMP. GW, VH, CF, AG CK: comfortable with a list but should be careful that they are not misinterpreted as a set of requirements that all must be achieved. There may be other innovations that could be implemented to achieve the outcomes. Not sure how it is referenced in the Policy or attached to the Plan as a schedule or not. PH: should not be a defined term.	
10. 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)?	See above		

Issue	Statements	Agreed Position	Disagreements, with reasons
11. 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? If not, how could PC2 be refined to better guide or limit exceedance of Table 14.2?	CF: No it doesn't provide guidance. CK: Not all activities are in the table. Policy in the RPS states that it should be implementable with GMP. GW: Does need policies for guidance consent – as many as possible through controlled activities - pathways for compliance. NC: Policy Guidance to be considered when consent is sought for exceedance? • Weather / Climate • Soil • Existing / new • Risk matrix of effects directly on receiving water body • Proportionality in ensuring that existing intensive farming land uses that have high nitrogen leaching loss relate to the nitrogen leaching loss rate specified in Table 14.2A make appropriately proportionate reductions • Proportionality of the nitrogen leaching loss and sediment – schedule E • Considering both local and sub-catchment zone. • The actual and potential effects of the N leaching loss and sediment loss from the land and from other contaminants and proposed mitigation measures on ground water and surface water quality, in terms of	All agreed All agreed,	GW, CF, PH: Disagree that Natural State should be included.

Issue	Statements	Agreed Position	Disagreements, with reasons
	the relevant values including schedule E values and values in treaty settlement documents, in accordance with statutory obligations. Natural State SK: need to consider treaty settlements, including statutory acknowledgements on local waterways identified in these documents, within the target catchment.		
12. 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 of consent durations or consent review requirements?	CK: In my view, this is a transitional plan change which is not proposed to give effect to the NPS 2017 and NPS 2020. It is not directly relevant, except for the objective. GW: Consent durations or review requirements are a policy consideration for the council. Policy 12.5 is relevant. AF: Limited duration should not apply to treated industrial waste water irrigation. Policy 12.5 should apply. Other PC2 limits on duration should not override Policy 12.5. PH: Any limit on duration should not apply to municipal waste water treatment irrigation. Other PC2 limits on duration should not override Policy 12.5.	All agreed All agreed, except AG, PW, SK All agreed except CF, CK All agreed	AG, PW, SK: (IFLU consents generally expiring in 2030) Limited terms of consent CF, CK disagrees with AF

Issue	Statements	Agreed Position	Disagreements, with reasons
	NC: Where parties implement additional mitigations, consents should be given consideration of longer duration.	All agreed	
13. How are cumulative effects of individual INFLUs assessed and managed under PC2?			
14. What should be the minimum and maximum information requirements for applications for consent under PC2?			
15. 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?			
16. 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?	Lodging within two years	All agreed	
17. How can future Overseer FM version updates be accommodated within the PC2 rule framework?	It is a good idea to do this, but there should be no need to update OVERSEER assuming that everyone has applied for consent before OVERSEER requires its next update.	All agreed	
18. What are the merits and disadvantages of including a list of agreed minimum	See above		

Issue	Statements	Agreed Position	Disagreements, with reasons
management practices in the proposed definition of 'good management practices'?			
19. 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 nutrient management plans required by PC2? Pre-hearing meeting discussions identified six potential uses for the Overseer FM farm systems modelling tool: - As a tool for calculating (permitted activity) limits in a Plan; - As a tool to set threshold for activity status in a Plan; - As a monitoring tool for compliance monitoring and enforcement; - As an information tool to test the efficacy of on-farm system changes to inform adaptive	GC: – Report on use of overseer for regulation is due out to Regional Councils CK: - not relevant to PC2 - yes - no - yes e) and f) are not relevant to PC2 as it is not allocating and setting up trading – Overseer is not an allocation tool	All agreed	

Issue	Statements	Agreed Position	Disagreements, with reasons
management (i.e. a decision support tool); e. As an allocation tool for allocating individual shares of N or P contributed to the catchment; f. Related to (e) above: as a basis for establishing a trading mechanism for N contamination 'rights'. Do the experts agree that these are valid uses of Overseer FM?			
20. 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?			
21. Should any of the GMPs, BMPs or additional innovations identified by the Farming and Growing Management Practices joint witness statement (questions (a) and (b) above) be specified as minimum requirements for	See above		

Issue	Statements	Agreed Position	Disagreements, with reasons
obtaining consent under PC2?			