

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

of appeals lodged against proposed Plan
Change 2 to the Manawatu-Whanganui One
Plan

JOINT WITNESS STATEMENT OF PLANNING EXPERTS

27 May 2024

INTRODUCTION

1. This joint expert witness statement relates to the appeals lodged against proposed Plan Change 2 (**PC2**) of the Manawatu-Whanganui One Plan which focuses on existing intensive farming land use activities within targeted water catchments in the region.
2. Planning experts attending the conference were:
 - (a) Christine Foster (**CF**) for Manawātū-Whanganui Regional Council;
 - (b) Dr Charlotte Drury (**CD**) for Horticulture NZ;
 - (c) Michael Scott (**MS**) for Andrew Day; and
 - (d) Gregory Carlyon (**GC**) for Wellington Fish and Game and Ngāti Turanga.
3. The conference was facilitated by Environment Court Commissioner Buchanan.

AGREED QUESTIONS

4. The questions for discussion are set out below in Annexure A.

CODE OF CONDUCT

5. This joint witness statement is prepared in accordance with section 9 of the Environment Court Practice Note 2023.
6. We confirm that we have read the Environment Court Practice Note 2023 and agree to abide by it.

PURPOSE AND SCOPE OF CONFERENCING

7. This conference follows an earlier planning conference on 1 May 2024, which exclusively focused on commercial vegetable growing activities. That conference also preceded the exchange of the Council's recent reply evidence – in particular, the Council's Reply Provisions, as attached to Mrs Foster's 17 May 2024 evidence.
8. This conference is intended to encompass all remaining planning matters for discussion not covered in the 1 May 2024 conferencing

statement, as well as any planning matters which have arisen from the Council's Reply Provisions.

AGREED ISSUES

9. Refer to Annexure A.

DISAGREEMENT AND REASONS

10. Refer to Annexure A.

Date: 27 May 2024



Christine Foster



Dr Charlotte Drury



Michael Scott



Gregory Carlyon

ANNEXURE A

In the matter of Proposed Plan Change 2

Expert conferencing – Planning – CF, CD, MS, GC

Issue	Agreed Position	Disagreements
- Does the table at [40] of CF's 17 May 2024 evidence accurately describe the differences in the positions of the parties in relation to the PC2 provisions as reflected in the Council Reply Provisions, Day V3 Provisions, and provisions introduced at hearing by G Carlyon? - Are there any changes in position, additional points of agreement, and remaining points of disagreement?	- The table at [40] accurately reflects the differences in positions. - GC supports Day V3. Should Day V3 be advanced, there are some clarification amendments that MS is proposing.	The difference of view held between the parties in relation to the use of Overseer, is noted particularly in relation to Overseer outputs being used on an absolute basis. GC identified appropriateness of Overseer as a foundation for consent drafting gateway and potential for application for exceptions for compliance with CNLMs in discretionary decision making. Supported by MS.
- Do the experts agree that the reference file approach described in CF's 17 May 2024 evidence effectively addresses the Overseer Version issue? Including proposed amendments in Council's Reply Provisions to: - Methods and schedule - Policies	The experts support the inclusion of schedule ZA set out at page 47 of CF's 17 May 2024 supporting evidence. CD reiterated Stuart Fords offer (in his evidence) to assist the Council with the development of a potato reference file, that could be used alongside the dairy reference files.	

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• Rules • Definitions 4. If so, how should conditions be imposed for consents granted under that reference file approach?	4. The experts agree that the framing of the conditions of consent is a matter for implementation, but it is workable to word conditions including reference to the Overseer reference files to ensure equivalence over time to any limit imposed through the conditions.	
5. In relation to the s 32AA analysis: a) What are the reasonably practicable alternative options (are these encapsulated in CF 17 May 2024 evidence 158-159 and the 4 options recorded there)? b) The planning evidence provides conflicting analyses under s 32AA – do the planners want to make any further comment on or changes to their analyses following on from considering CF’s 17 May 2024 evidence?	5. The experts agree that the options are adequately represented in CF’s evidence. The experts are not promoting any changes to their s 32AA analysis already provided to the Court.	
6. The Council Reply Provisions, Day V3 provisions, and provisions introduced by GC at hearing recommend differing amendments to Policy 5-8. Do the participants want to make any further comment or changes to their recommendations following on from considering CF’s 17 May 2024 evidence.	6. All experts support reverting to decisions version of Policy 5-8(a)(i)(A) removing the reference to non point sources of nitrogen as proposed by CF in the Council reply provisions. All experts support Policy 5-8(a)(ii) and (iib) as proposed by CF in the Council reply provisions.	6. In all other respects MS and GC continue to support the version of Policy 5-8 in Day V3 provisions.

Issue	Agreed Position	Disagreements
7. The Council Reply Provisions, Day V3 provisions, and provisions introduced by GC at the hearing recommend differing structures for Policy 14-6. Do the participants want to make any further comment or changes to their recommendations following on from considering CF's 17 May 2024 evidence. 8. The Council Reply Provisions, Day V3 provisions, and provisions introduced by GC at hearing recommend different policy consideration lists, and different lists of matters to be addressed in consent conditions, to be included in Policy 14-6. Do the participants want to make any further comment or changes to their recommendations following on from considering CF's 17 May 2024 evidence.	7. The experts agree that Policy 14-6 should use suitably directive language. CD supports CF's reply provisions. CF, MS and GC have advanced different versions of Policy 14-6 but acknowledge that the list of matters put forward could be improved, following direction from the Court. The experts note that items 4(a) to 4(c) of the 1 May 2024 Joint Witness Statement address aspects of Policy 14-6. Whilst GC was not in attendance, he supports the direction taken for these elements. 8. The experts agree that it is appropriate to have a separate subset of matters to be addressed through conditions, after considering the matters relevant for determining applications for consent.	
9. Noting the Hearing Panel's reasons for excluding it, do the experts consider that the inclusion of Year 20 in Table 14.2 is appropriate? Why/why not?	9. All experts support the retention of the Year 20 CNLMs in Table 14.2 for reasons set out in CF's supplementary evidence, dated 17 May 2024, paragraphs 88-91.	
10. Do the experts consider that a maximum 10 year duration for existing	10. The experts agree that a maximum 10 year duration is appropriate for all exceptions from Table 14.2 (the controlled activity alternative pathways and discretionary	

Issue	Agreed Position	Disagreements
IFLU consents under the PC2 framework is appropriate?	activity under the Council reply provisions and the discretionary activity pathway under Day V3 provisions) but not Table 14.2 consents. GC acknowledges the error he made in response to questions from the Court regarding term of consent for controlled activities. The position as set out above is correct.	
11. Crop rotation – do the experts agree with the amendment to Rule 14-1 suggested by CD (addressing crop rotation)?	11. Given the discussion at 1 May expert conferencing, CD no longer proposes the amendment to Rule 14-1. CD considers that the definition of crop rotation set out in the Council's Reply Provisions, when read together with the definition of commercial vegetable growing, make clear the operational requirements of crop rotation.	
12. The Council Reply Provisions, and Day V3 provisions and provisions introduced by GC at hearing having different recommendations on Rule 14-1 condition (a) as set out in the Council Reply Provisions. Do the participants want to make any further comment or changes to their recommendations following on from considering CF's 17 May 2024 evidence.		12. The Council is proposing changes to Rule 14-1 condition (a) that would prevent applications for increases in leaching above currently consented levels as a controlled activity. MS considers that it is an important equity issue to allow farmers who have been consented below table 14-2 to have the flexibility to innovate below the CNLMs in the same ways available to other farmers. This applies only where Table 14-2 is the sole controlled activity gateway. MS would not support reconsenting outside Table 14-2 as a controlled activity using the alternative pathways proposed by the Council. CF notes that, if there is an issue of existing consent holders having N leaching limits less than Table 14-2, the wording could be refined to allow them the freedom to increase to but not exceed Table 14-2, for example:

Issue	Agreed Position	Disagreements
		Where an application is made <u>under clause (d)(ii),(iii) or (iv) below</u> to replace, renew or vary consent for an existing intensive farming land^ use granted prior to 22 July 2019, the nitrogen leaching loss proposed in the application must not exceed the nitrogen leaching loss authorised by any earlier resource consent^.