

LAND AND WATER PLAN

PLAN CHANGES 1

Reconvened hearing based on Wetland Boundaries Review, December 2018

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I/ we will not be able to attend the reconvened hearing on the 31st January 2019. However we have considered all relevant documents involved and would like our response to them considered, as detailed in this submission.

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1. **Summary:** I/ we still have our original concerns;
 - that many areas proposed for removal from wetland status are the margins of those wetlands and as such were originally included as buffer margins.
 - that some areas considered for exclusion are public land, with some of that public land designated; which must take priority over adjacent landowners requests for removal from the schedule.
 - that paper roads are included in schedule exclusions - does the regional council have a mandate to designate either way on such land?
2. **Public lands:** Based on analysis of Westmaps, substantial parts of wetlands proposed to be removed from the schedule are lands which are public land. Public land surely should be left in its natural state unless otherwise designated. Buller District Council has rightly pointed out (s42 Report, May 2018; Decision requested 2.9) that some exclusions on public land are legitimate, such as those for the water reserve on Caledonian Terrace. However some other of the deletions proposed are on public land abutting privately-owned farms. Unless landowners have a licence to occupy it is highly likely illegal to exclude such areas from wetland designation at the abutting private landowners' requests.
3. **Appendix 1 of the boundary Review:** Brief for the Assessor, provided for things to consider when undertaking the site visits.
 - 3.1.1. permanently or intermittently wet?
 - 3.1.2. plants and animals present adapted to wet conditions?
 - 3.1.3. whether those plants and animals form a community of interacting organisms in a wet environment?

3.2. No doubt this brief was based on the RMA wetland interpretation:
(RMA, section 2: Interpretation)
“Wetland includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.”

3.3. The Land and Water Plan's section 6, objective 1, Explanation, says,
“...Mapping included sufficient margins where necessary to control adjoining land drainage activities that might otherwise affect the natural water level within the wetland itself and have adverse effects on the values present.”

3.4. The, 'sufficient margins', in other words are buffer zones. Failure to include

buffer zones in the brief for the assessor could be considered a breach of the L&W Plan as that omission may result in some instances in no buffer between wetlands and adjoining land use.

- 3.5. Instructions for further assessment of some wetlands should have included ensuring that any proposed exclusions would not compromise wetland values through any land use change, particularly involving drainage activities for the proposed exclusions. This relates strongly to buffering.

3.6. **Relevant extracts from the L&W Plan concerning buffers:**

6.3 *Policies*

- 6.3.1 *To recognise the significant wetlands in Schedule 1 and to identify and protect their values by controlling activities in those wetlands **and their margins** to ensure their natural character and ecosystems (including ecosystem functions and habitats) are sustained.*
- 6.3.2 *To recognise the significant wetlands in Schedule 2 that are shown to meet any one of the ecological criteria in Schedule 3, and to identify and protect their values by controlling activities in those wetlands **and their margins** to ensure their natural character and ecosystems (including ecosystem functions and habitats) are sustained.*
- 6.3.4 *To provide protection for any wetlands not in Schedule 1 or 2 that are shown to meet any one of the ecological criteria in Schedule 3, and to identify and protect the values of those wetlands **and their margins** to ensure their natural character and ecosystems (including ecosystem functions and habitats) are sustained.*

Explanation

*Policy 6.3.2 Mapping of Schedule 2 wetlands has taken into account **possible adverse effects of adjoining activities on the hydrology of a wetland** (including those in Schedule 1). Mapping included **sufficient margins where necessary to control adjoining land drainage activities** that might otherwise affect the natural water level within the wetland itself and have adverse effects on the values present.*

4. Boundary review: Items of concern:

4.1. HOKP009 and HOKP064, Totara Lagoon, Ross

- 4.1.1. Although the boundary Review Report did not recommend removing further parts out of wetland status, substantial parts of the wetland proposed to be removed appear to be in the Mahinapua Wildlife Management Reserve. This needs to be thoroughly checked out and if this is the case, then that

public land needs to be reinstated as wetland, and given Schedule 1 status.

4.2. HOKP079, Cropp Road, Kowhitirangi

4.2.1. That proposed to be removed is partly road reserve along a creek, which is also river riparian margin. The Reserves Act says that reserves must be preserved in a way compatible with their primary purpose; allowing that reserve to be taken out of the schedule will be sanctioning development of that land in ways other than for its primary purpose, based on adjacent land use, which will be contrary to the Reserves Act. The other portion being considered for revocation is paper road. Unless it is being used as a dedicated road, or there is a Licence to Occupy, the regional council cannot take its wetland designation away in order to allow farming of it.

4.3. The Reserves Act (1987) says;

23 Local purpose reserves

- (2) *every local purpose reserve shall be so administered and maintained under the appropriate provisions of this Act that—*
 - (a) *where scenic, historic, archaeological, biological, or natural features are present on the reserve, those features shall be managed and protected to the extent compatible with the principal or primary purpose of the reserve:*
 - (b) *to the extent compatible with the principal or primary purpose of the reserve, its value as a soil, water, and forest conservation area shall be maintained.*

111 Road reserve may be dedicated as a road

- (1) *Where any land is vested in the Crown or in any local authority for the purposes of a road reserve and the land is required for the purposes of a road, the land may be dedicated as a road by notice under the hand of the Minister or, as the case may be, by resolution of the local authority, and lodged with the Registrar-General of Land.*

4.3.1. This tells me that any road reserve must be left in its natural state unless required to be used as a road, where its change of use must be registered with the Registrar-General of Land. Unfortunately (for river health and nature corridors) s23 is not adhered to on the West Coast by many adjacent land owners, nor local councils, but the regional council has no authority in itself to exclude road reserve from wetland status by request from

abutting landowners. Colin and Juliette Henry are most likely farming that road reserve, or have intentions of doing so (by extension of extant abutting land use).

4.4. HOKP099 Little Houhou Creek

4.4.1. *'Mr Chinn is seeking the boundary adjustment, and on the true left side (wetland side) of the drain adjoining the south- west corner of the wetland, these areas have no wetland values. Mr Chinn requests the adjustment so he can clean out the drain, which requires cleaning approximately every twenty years.'*

4.4.2. It appears undeniable that the drain referred to here is a trained natural watercourse bordering the remnant wetland, the convoluted nature of the margin being the natural watercourse's route. If Mr Chin has his machinery on the wetland side of the waterway to clean it out then it will degrade the wetland margin further by the tracks of the machinery and introduction of further weeds via the machinery's tracked wheels. Surely the waterway needs to be included in the margin for protection of the wetland. Surely Mr Chin can clear out this narrow waterway on the pasture side of the waterway. This is also a drainage activity within 25 metres of a wetland.

4.4.3. The Land and Water Plan's section 6, objective 1, Explanation, says, *"...Mapping included **sufficient margins** where necessary to control adjoining land drainage activities that might otherwise affect the natural water level within the wetland itself and have adverse effects on the values present."*

4.4.4. 6.3.2 *To recognise the significant wetlands in Schedule 2 that are shown to meet any one of the ecological criteria in Schedule 3, and to identify and protect their values by **controlling activities** in those wetlands **and their margins** to ensure their natural character and ecosystems (including ecosystem functions and habitats) are sustained.*

4.5. Admittedly, the s42 Report says that the planning team leader and DOC ecologist concluded that most of the areas proposed to be removed in Plan Change 1 will not affect the hydrology of the scheduled wetlands. Nevertheless in this particular instance I/ we have concerns.

4.6. PUNP001, Barrytown Flats, Maher Swamp

- 4.6.1. It is obvious that George and Caryl Coates do not want any of their land to be designated swamp. It is peculiar how swamp values can end directly on a boundary line. Figures 84 - 87 are poorly taken, the grey hue certainly makes the vegetation look degraded, a bit like dying gorse, but the reality may not be so, nevertheless those photos convey swamp features, contrary to what Ms Phelps says. How can Ms Phelps say that 20cm pooled is due to rain rather than wetland values? Yes, it has been modified but kahikatea loves wet areas and it certainly looks like kahikatea in figure 87. Ms Phelps says the ground was,

'boggy, however not particularly soft underfoot'.

This is a contradiction in terms. Also, bog is another term for wetland.

- 4.6.2. Appendix 1 of the December 2018 S42 Report says:

'The first critical question is whether the land is permanently or intermittently wet. If so, it is "wetland".'

- 4.6.3. Ms Phelps also recorded the Coates as saying'

'There is a drain and a small creek running through the property towards the adjacent Department of Conservation land to the West. The submitter stated that the small creek does not permanently flow as it tends to dry up in the summer time.'

In other words it may be an ephemeral stream (there is no proof except for the pers.comm of the Coates). An ephemeral stream can be considered as indicative of wetland values.

- 4.6.4. Ms Phelps lists the vegetation she observed. It included kahikatea, which is the only canopy species listed. It is common knowledge that kahikatea forests are swamp forests. The DOC website says,

Swamp forests - wetland giants

Kahikatea is the dominant swamp forest species and our tallest native tree growing to heights of 60 metres or more, with trunks measuring up to 2 metres across. In fertile, seasonally flooded areas, kahikatea trees grow densely on matted roots and silt, along with swamp maire, pukatea, cabbage trees, pokaka, and occasionally rimu. Dead plant matter and silt slowly builds up under kahikatea forest, allowing shade-loving dryland trees like tawa and titoki to flourish. But every so often, powerful floods flatten the drying forest, creating a well-lit, damp nursery

for young kahikatea, and re-setting the course to swamp forest.

Healthy swamp forest are home to secretive birds such as the Australasian bittern, marsh crake, spotless crake and banded rail, and may support short- and long-finned eels, and various species of kokopu and mudfish.

<https://www.doc.govt.nz/nature/native-plants/wetland-forests/>

Our leading government department on nature considers Kahikatea Forest to be swamp.

- 4.6.5. The bottom paragraph of 2.48 of the May 2018 S42 Report says, *'...the criteria DOC used in the Report to assess whether the site is ecologically significant in terms of being eligible for purchase by the Nature Heritage Fund is different to the Schedule 3 ecological criteria for assessing whether a wetland is significant or not. Therefore, we cannot rely on the information contained within the Report to conclusively prove that the area does not have significant wetland values. Therefore staff recommend removing the designation from the two areas of Schedule 2 wetland as per public notification of Plan Change 1.'*

It is contradictory. The 2009 DOC Report says the area does not have significant wetland values but its criteria for assessment is different to that of the WCRC Schedule 3 criteria. So WCRC planning staff conclude that there is no proof that that land does not have significant wetland values, on which premise the staff recommend removing the wetland designation. This contradictory conclusion is perhaps a syntax error but it seems unlikely. Staff reasoning for Decision 2.48 needs to be re-assessed.

- 4.6.6. Nikau Deer Frams (NDFL) stress in their further submission that not farming those areas could result in land reverting to weeds, land turning sour, and many other associated farming and economic issues, all poor excuses to retain farming. Any reversion to wetland will self-aright if left to regenerate. Sour land is a great base for reversion to wetland; in fact it is the best remedy for sour land. That wetlands are usually acidic is common knowledge.

- 4.6.7. The Coates interpretation of RMA s6(c) is offensive, where their implication is that private property owners have supreme right as to what can be done on that land, regardless of the potential environmental consequences of that attitude. Climate change is very real, and in large part due to land use change. Private land amounts to around 70% of the New Zealand land mass. If there were no rules around significant natural areas

on private land and land use change proceeded unabated we could be seeing more serious weather extremes than are happening. Section 6(c) is there to put some protection into place for remaining significant natural areas in order to prevent further decline of such areas, where we have lost so much in the short period of colonization in New Zealand. The vast majority of our wetlands have already been lost, one of myriad glaring instances the coastal flats between Kumara and Hokitika, where once was thick coastal wetland, is now mainly monoculture farmland, largely with no buffer to the sea. People that own large amounts of land should be responsible enough to realize that they need to protect at least some natural areas on their land, and if there are none, to reintroduce wild nature on parts. If such landowners cannot see that then rules need to be put in place to ensure that nature, the original inhabitant of the land which we exploit, actually gets a voice.

4.7. Other poorly coloured photos are:

- HARP021, Lake lanthe, figures 16, 17,
- HOKP079, Cropp Road, Kowhitirangi, figure 33
- HOKP099, Little Houhou Creek (Douglas Chinn), figures

5. Other issues:

5.1. In the further submission of Federated Farmers (FFNZ) to BCG/ Inta Decision requested 2.9, FFNZ said:

'Oppose. Requiring buffers as proposed by the submitter is not appropriate – the land at issue either has the wetland values or it doesn't. The RMA does not require councils to provide additional buffer areas in the way proposed; this would be to the significant detriment of impacted landowners, whether private or otherwise'


5.2. There is no precise ruling around wetlands in the RMA (although s2: Interpretation, defines a wetland) but rather it instructs regional councils to recognise and provide for the following matters of national importance: (s6: Matters of National Importance),

- (a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development,*

5.3. Regional councils can set their own rules within the confines of the RMA, especially those applicable to the region, (s30, 66, 67, 68) and in the L&W Plan it stipulates that buffer zones are required (see 3.6 above). The RMA allows a

regional council to interpret the RMA to suit its region to ensure sustainable management. If that management requires buffers for wetlands then those buffers are legitimate. If the preservation of the natural character of West Coast wetlands require buffers then that is appropriate, especially in relation to drainage activities on land adjacent to wetlands.

Frida Inta,
for,



20th January 2019

Buller Conservation Group

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