

**BEFORE COMMISSIONERS APPOINTED
BY THE WAIKATO REGIONAL COUNCIL**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the First Schedule to the Act

AND

IN THE MATTER of Waikato Regional Plan Change 1- Waikato
and Waipā River Catchments and Variation 1
to Plan Change 1

AND

IN THE MATTER of submissions under clause 6 First Schedule

BY **FARMERS 4 POSITIVE CHANGE**
Submitter

HEARING STATEMENT OF JAMES RICHARD BAILEY
4 March 2019

TABLE OF CONTENTS

Qualifications and Experience	2
Collaborative Stakeholders Group Process.....	2
Collaborative Stakeholders Group – Nitrogen Allocation	5
Collaborative Stakeholders group – Final Period	8
Next Steps.....	11

QUALIFICATIONS AND EXPERIENCE

1. My full name is James Richard Bailey.
2. I am the Managing Director of two farming businesses J.S.Bailey Ltd, and Momona Dairy Trust which together operates a total of four farms in the Waikato Region, including two dry stock units and two dairy units respectively. I am a past Waikato Ballance Farm Environment Award winner.
3. I have 10 years of experience working in farm system planning with multiple agencies working in collaboration with our farming business including Ag Research, Waikato River Authority, Waikato Catchment Environmental Enhancement Trust, and Regional and District Councils. This work is based around farm system modeling and design, ecosystem services, and general environmental improvement projects.
4. I am a cofounder and past chairman of Sustainable Coastlines Charitable Trust. I have been an officer and trustee for Puniu River Care. I have a Bachelor of Commerce degree and a graduate diploma in Applied Science.
5. I was a member of the Healthy Rivers Wai Ora Collaborative Stakeholder Group (CSG) and represented the Sheep and Beef Sector, the largest sector by land area in the Waikato Catchment. After the completion of the CSG Process I became a founding member of Farmers for Positive Change.
6. I am submitting this evidence on behalf of Farmers for Positive Change. I will be talking about the CSG process. I am also submitting again as an individual where I will talk about our farm planning, the importance of matching land class to the farming system and the way in which I can best help our catchment achieve Te Ture Whaimana, The Vision and Strategy.
7. I am fully supportive of Te Ture Whaimana, The Vision and Strategy for the Waikato and Waipa Rivers.

COLLABORATIVE STAKEHOLDERS GROUP PROCESS

8. I was immersed and committed to the CSG process for the entire 28 Month period and beyond through to the notification period and submissions. I attended every CSG meeting. I was also on several subgroups including the Modeling, Property Plan, Plan Drafting, and Maori Land Subgroups.
9. I was a farmer representative on the CSG. I was not a professional as others representing large sectors were. I was led to believe at the start of the process that the time commitment would be around 2 days every 4 to 6 weeks. This was certainly not the case at the end of the process where it was not uncommon to have 3 to 4 meetings a week plus reading and sector meetings.
10. I was selected to represent the Sheep and Beef sector by a panel consisting of predominantly Federated Farmers Staff and representatives, and a Beef and Lamb NZ representative. Federated Farmers at the time were employed by Beef and Lamb NZ to do their policy development work. For this reason, I had faith that Federated Farmers were working in the best interests of the Sheep and Beef sector. However, this evidently was not the case.
11. The Dairy Sector had two representatives that were well resourced, including a farmer representative and two professional representatives. The professional Dairy seat was often interchanged between the official CSG member (an environmental science expert) and the Dairy sector delegate (a policy expert). In addition to this, the Dairy sector enjoyed support from the Rural Professionals seat and the Rural Advocacy seat whose members were aligned with the Dairy industry. This wider Dairy team had a massive amount of experience, knowledge, and influence on the CSG and gave a lot of direction to WRC staff and CSG leadership.
12. It is important to explain the nature of representation between the Sheep and Beef sector and the Dairy sector because although they are both in the business of pastoral farming, these two sectors were at odds with many of the contentious points of the CSG, particularly with rules around nitrogen allocation and stock exclusion.

13. It was also explained to me at the beginning of the process that I would be given technical support and information from the technical leaders group. Unfortunately, the Sheep and Beef data they supplied the CSG with was often inaccurate and irrelevant. For example, the environmental impact data for the modelling from sheep and beef farming systems was based largely on Nitrogen and did not represent real-life farming scenarios in the Waikato. For evidence of these concerns I raised with the CSG over data being used for the modelling process please see **Appendix 1** titled CSG11 Sector Feedback.
14. To help bolster the TLG's understanding of the Sheep and Beef industry I attempted to bring in experts but even this was thwarted. For example, during our discussions on allocation I asked to have Dr. Alec Mackay from Ag Research, an expert on natural capital and ecosystem services, to come and present to the CSG. This was arranged several weeks in advance. Dr. Mackay was scheduled to appear in front of the CSG. Then the day before he was about to present he was told by the Waikato Regional Council that his presentation had been cancelled. It became apparent that the presentation was cancelled because of pressure from the Dairy Industry. Dr. Mackay was eventually brought into talk alongside several others in what ended up being a disjointed panel discussion session with no real clarity given to the CSG on the concept on natural capital. I largely had to inform the CSG on matters around natural capital and land suitability myself with the help of my delegate Graeme Gleeson.
15. During the CSG process, I delivered clear and consistent feedback to the CSG with solutions and proposed changes (for one of many examples of this see **Appendix 2** CSG 23 Sheep and Beef Sector Feedback). I took feedback from our sector and farmers and delivered it to the CSG in written format, and through the exercises facilitated by the group leadership. I also established a sector focus group which was set up to give timely feedback as the CSG required it in the intensive final period.
16. The feedback I delivered to the CSG from farmers was that they are supportive of Te Ture Whaimana, the Vision and Strategy. However, we were consistently told the following, and this was repeatedly explained at length to the CSG:

- We need Investment Certainty.
- No Grandparenting (granting of historical use rights) – Most Important
- Rules must be Practical (particularly regarding stock exclusion)
- Meaningful Farm planning is the central tool for us to achieve Vision and Strategy

17. Please also note that even at CSG 23 (**Appendix 2**) there was still no discussion around a Nitrogen Reference Point.

COLLABORATIVE STAKEHOLDER GROUP NITROGEN ALLOCATION

18. The CSG agreed that there would be no Grandparenting (allocating by granting existing use rights) early in the process and then confirmed this mid- way through the process. See notes below from CSG 21 for evidence of this.

3	9.40am	<p><u>Allocating responsibility/pace of change</u></p> <p>Helen summarised where the group got to in regards to allocation at the last CSG workshop.</p> <p><u>Points that are generally agreed:</u></p> <ul style="list-style-type: none"> • Benchmarking (retrospective) is a critical step <u>but not</u> as an allocation (do not want pure grandparenting). Benchmarking is for knowledge/monitoring/accounting, not allocation • Hold the line against pressure to intensify while we provide the transition time to minimise social disruption/pain AND create the change towards agreed limit steps. E.g. 10% rule on intensification OR stop conversions. Need to create mindset for change and keep moving in transition; have ways to demonstrate change is occurring. • Bring top N-emitters down (e.g. to 75%ile). This gets some fast gain and captures those who intensified in anticipation. 	
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19. The CSG discussion around Nitrogen was about a no land use change rule that would mean we would not have to allocate at a property level in the first instance and transition towards an allocation system. Please refer to CSG notes below for evidence of this.

What we can all agree on;

- Transition
- 5 to 10 year timeframe
- Knowledge will evolve
- Importance of property plans
- We are setting the direction to a property based allocation framework
- Transitioning towards a property level limit
- Keep people focused on achieving the vision and strategy
- Transition towards a system with flexibility .

20. The no land use change rule was to be a back stop to the lack of an allocation system in the first instance. The Sheep and Beef sector gave feedback that a threshold mechanism for N loss would be preferred and gave examples of how this could work (**see Appendix 2**). However, we were heading towards a general no land use change rule, while an allocation system was developed around the key principles of allocation developed by the CSG, the first of which was Land Use Suitability. This was mine, and the sectors understanding right up until the final few months of the process.

21. My sector places great importance in basing any allocation framework on the natural resources or natural capital of one's property and like land being treated the same. As I pointed out earlier, my efforts in securing an expert to explain and discuss this with the CSG in an uninhibited manner were thwarted. Despite this, I fought hard to be heard and gave multiple presentations on the topic alongside my delegate Graeme Gleeson. We gained an agreement by the CSG that natural capital and land use suitability would be a key principle of any allocation framework. This concept was supported by the Environment and NGO sector. The wording of the allocation principles developed and agreed by the CSG can now be found in Policy 7.

Any future allocation should consider the following principles:

- a. Land suitability ⁽⁵⁾ which reflects the biophysical and climate properties, the risk of contaminant discharges from that land, and the sensitivity of the receiving water body, as a starting point (i.e. where the effect on the land and receiving waters will be the same, like land is treated the same for the purposes of allocation); and

22. As the CSG moved into the final few months of its process there were several subgroups created to handle the huge amount of work assigned to us. As the sole CSG member for Sheep and Beef sector I was stretched across all the subgroups to try to ensure that the final product was consistent with the discussions the CSG had had to date.
23. The subgroup that was tasked with developing the requirements of mitigations on farms was dominated by dairy sector reps and associated sectors. It was here that the Grand parenting concept for low N leaching farm systems was re-introduced through the “Nitrogen Reference Point” (NRP) with no flexibility allowed. This notion stood against many of the CSG’s own policy selection criteria and despite my work trying to counter this, it found its way into PC1. Even more disturbing was that our allocation principle of Land Use Suitability (and treating like land the same), that we had fought so hard for had been pushed out of PC1 and into wording around guidance for future plan changes with no imperative for council to develop a framework in the meantime.
24. Essentially PC1 as it stands acknowledges current Nitrogen loss rates but does not give any certainty as to how Nitrogen will be allocated in the future. This is granting existing use rights, or Grand-parenting in its purest form with no transition to an equitable system in the future. This is exactly what our sector had entered the collaborative process in good faith to avoid.
25. On top of this PC1 still has the no land use change rule which was supposed to give a certain amount of time and flexibility while an allocation system was developed. So now we have grand-parenting through the NRP and a no land use change rule.
26. The Sheep and Beef Sector fought hard alongside the Forestry sector and others just to have an end date for the no land use change rule. Looking back at the process, it is quite extraordinary to think that a collaborative

group could ever think that having an indefinite no land use change rule would be a good thing for our region, or any region for that matter, because of the obvious implications of equity and more importantly our ability to develop land use to suit our changing markets and climatic conditions. This also reflects the influence that the Dairy sector had on the CSG.

27. The Sheep and Beef sector had support in its views from other CSG members including the Forestry Sector, Industry Sector, and Maori Interest sector, and some Community members.

28. The NRP and allocation discussions and subgroup work all happened in an intensive final few months. In efforts to collaborate I proposed alternatives to the group including reintroducing the N threshold mechanism and requesting that flexibility for low N loss farming systems be reconsidered. Despite having already raised this mechanism, I was criticized for introducing a new mechanism at such a late stage of the process.

29. The group voted on my proposal of flexibility for Low N loss systems but it did not pass by a very narrow margin (7 votes to 8) with Rural Advocacy (Federated Farmers) abstaining from the vote. This showed that while there was a strong level of support in the CSG for our sectors views, I was continually drowned out by the Dairy Sector and their associated CSG members.

COLLABORATIVE STAKEHOLDER GROUP – FINAL PERIOD

30. The CSG process was intensive and for those sectors most impacted it was a full-time job. In the final few months it was common for me to have 3 to 4 days a week taken up with meetings and then reading and sector engagement on top of that. For those of us with full time jobs outside of advocacy or planning it was very exhausting. The final period of the CSG process was rushed through to meet a political deadline of the Regional Council Elections.

31. During this intensive period the PC1 changed from what we had discussed in the previous 2 years. Before this intensive period our sector was

reasonable happy with where things were heading and then suddenly the nature of the whole plan changed and we were left with something very different.

32. During this time CSG's Independent Chair took leave overseas for 6 weeks. This meant that two community CSG members had to step up into the chairs role. One of these members was the only other CSG member with commercial dry stock experience in the group. He did a great job in the circumstances but his role as chair required him to be impartial. This puts the close votes taken in the final few meetings into even further question.
33. Important discussions around allocation were left too late and resulted in PC1 not giving any real indication of what allocation system we are heading towards and simply granting existing use rights and postponing these important discussions until the next plan change. This leaves many questions unanswered and does not give farmers any investment certainty in how they should be approaching their farm system considerations for the future.
34. The result of the CSG Process was considered by many as a win for the Dairy Industry. They have very little to do over the next 10 years as PC1 stands currently even though the Dairy industry is the biggest contributor to contaminant loads especially around N and P (as reported by TLG). There is the notion that the top 25 percent of N leachers may have to come down but how this is managed is unclear and effectively they could wait until the very last minute to do so.
35. As someone who has a large vested interest dairy farming I see PC1, as it stands, as a real issue of concern for the dairy industry. With a business-as-usual approach there is little incentive for innovation, and collaboration within their sub catchments. In fact, Dairy NZ has been actively discouraging dairy farmers from joining some sub catchment groups that have formed throughout the Waikato in response to PC1. I am worried that the Dairy sector are isolating themselves which may lead to a significant kick back in the future, and put further pressure on other sectors to pick up the slack.

36. I was left with no choice but to formally object to the policy mix direction, the process and the overall PC1 package. It had become something that did not represent our discussions, especially regarding the grand parenting of Nitrogen use rights. This letter of objection was presented to the CSG at meeting 29 and sent to all CSG members, councilors, and all Healthy River Wai Ora Committee members. Please find a copy of my formal objection letter attached as **Appendix 3**.
37. My objection was validated by the fact that 70% of all submissions on PC1 came from the Sheep and Beef Sector and are largely consistent with the details of my objection.
38. In his evidence submitted as a proponent of the plan, Waikato Regional Council CEO, Vaughan Payne says the process “resulted in a policy framework that has been developed by those most impacted”. Unfortunately, Sheep and Beef, Forestry, and Environment/NGO, the sectors that will likely be impacted most, and represent a large majority of the land in the region, were not listened to in the process and this is clearly represented by the disproportionate amount of submissions coming from the Sheep and Beef Sector.
39. As the CSG process closed and moved into notification and submissions CEO of Waikato regional Council Vaughn Payne wrote a media release titled “Clarity needed in Water Discussion” where he stated on record that the CSG process “required a huge amount of deliberation, consultation, collaboration and finally consensus between all parties”. This is a factually incorrect and misleading statement and represents the underlying willingness of the Waikato Regional Council to push PC1 through under the false pretence that the outcome of CSG process was consensus.
40. I acknowledge that Waikato Regional Council CEO Vaughan Payne states in his evidence that the plan change can be improved and that the “Submission and Hearing process will ensure that there is additional sector and community input to improve the plan change”.

NEXT STEPS

41. My formal objection to the way in which the Plan Change developed in the final stages of the process was a strong signal that the CSG process did not get the policy mix right and this was validated by the results of the submission process. Through this hearings process, we now have an opportunity to acknowledge this, and amend the plan accordingly.

42. We need to signal to farmers that while we acknowledge where we are today, we need to transition and adapt our farming systems to better suit our natural resources. This can be achieved through sub catchment plans informing a meaningful farm planning processes and an allocation system that is focused on sustainable management of the resources beneath our feet as opposed to focusing on how we have used and sometimes misused these resources in the past. This needs to be signaled now in Plan Change One, to give people investment certainty and foster innovation so that we can look to the future.

43. My contribution to this lodgment of evidence for Farmers for Positive Change gives you our perspective of the CSG process. I look forward to talking to you more in my individual submission hearing about solutions, our farming system, and the work we have been doing to get us on the path towards Te Ture Whaimana, The Vision and Strategy.

Dated this 4 day of March 2019

James Bailey

Farmers for Positive Change