Forestry regulation on farmland.
The result of rigorous planning, or fear of change?

Ali Undorf-Lay

This article challenges the current trend towards precautionary planning by some territorial authorities. It is contended that the lack of rigorous analysis has led to unnecessary controls of forestry on farms. Unreasonable constraints on forestry options for hill country land users severely limits the odds of achieving sustainability. Is this what we really want?

In Canterbury, forestry is often the catalyst for environmental angst. To many people, it is seen to represent an undesirable ‘greening’ of natural landscapes where, of course, natural values have already been vastly modified. It seems to be forgotten that on many farms, forestry can represent a viable land use change (particularly for marginal country), and an economic buffer against fluctuating livestock prices.

The clashing of values has been waged most exhaustively through the district planning process. Every district plan in Canterbury has seen a struggle for common sense. Many confrontations have been expensive and bitter. Despite district councils having featured some regulation of forestry in all notified plans, it never seems to be enough to satisfy all parties.

For example, when Mackenzie District required a consent (controlled activity status) for more than 5 ha of forestry planted (over 10 years) in the Fairlie Basin, the environmentalists dragged it back to 2 ha. And this is in an area where land use options are limited, and where forestry already exists as an important contribution to many farm incomes, as well as in shelterbelts and amenity plantings.

Participation in the debate

I have been active in most Canterbury district plan battles and can assure you that these forestry debates are often a waste of time, effort, and resources – especially when one considers the poor quality of solution often obtained. The debate is always political, never very scientific and too often arguments are presented by people who are not familiar with the land, or the land use options, which are under scrutiny. These people also have to bear little responsibility for the consequences of their advocacy.

The flash-point question is becoming familiar. ‘How many trees should one person be able to plant before consent needs to be obtained and the public have a right to say no?’ In each district, the emotion is the same but the negotiated outcome (i.e. the ‘size’ threshold where forestry requires a consent) often differs.

Literal hundreds of hours of meetings, hearings, and Environment Court mediation sessions have resulted in negotiated compromises that, in hindsight, seem senseless and impractical. This is often due to the extreme stance taken by the ‘opposition’, who know that if they engage in the RMA legal process long enough, a compromise will be reached which is, more than likely, unduly restrictive to forestry. My experience of the appeal process is that ‘extremists’ have nothing to lose from mediating a decision; whilst landowners seldom have anything to gain.

The Federation is forced into mediation because of the prospects of expensive court costs if taken further. A 1-day hearing on forestry issues in the Mackenzie District Council chambers dragged on for 3 days. The mediator insisted on an outcome before closing. After a long session of dealing with minor and increasingly inconsequential issues and diminishing gains to be won from a Court hearing, we were exhausted and agreed to a compromise with which we were far from happy. In this case it was only to permit plantings within a 500 m radius of a cluster of farm buildings! Needless to say, our farm forestry friends found the logic of that hard to follow – but they had not endured endless hours going around in circles trying to reach a compromise solution.

A glance at the 11 district councils in Canterbury shows that forestry is regulated in most rural areas, particularly in hill and high country. Above 900m it is almost always non-complying, but few foresters would complain about that, as at high altitudes trees are slower growing, and often difficult to access and harvest. It is below this altitude that the real problems lie, as regulation is generally discretionary, requiring a resource consent, which might be refused. Across all districts there is little use of the controlled consent category, where permission is assured subject to certain conditions being met.

Regulation normally relates to natural character and wilding trees, but often assessment methods include other aspects such as adjacent land use issues, arbitrary hectare sizes, water yield and the colour and texture of trees. In the Mackenzie District, the consenting process requires consideration of ‘the extent to which plantings are in sympathy and harmony with topography’. There is also a need to avoid ‘plantings which highlight the contrast between dominantly horizontal landscape and the vertical element of trees, particularly dark evergreens against light tussock’. In Timaru District, the Council considers ‘group plantings of several species more appropriate than single species’.

1 Ali Undorf-Lay is Policy Analyst with Federated Farmers in Christchurch.
In response to my criticism of these district council regulations, some people will undoubtedly say: “What is the forestry’s problem; all a farmer needs is a resource consent, which can be readily obtained from any Council”. This is true, and indeed it would not be a problem if the resource consent application process was user-friendly and cheap. But, in many situations, a farmer will find this not to be the case.

Out of left field

In December 2002, Environment Canterbury (ECan – formerly the Canterbury Regional Council) came out with an unexpected decision, which compounded the forestry restrictions imposed by district councils. After years of taking an active position (usually constraining forestry) in the district planning process with only limited success, they announced their intention to write a regional rule restricting forestry for reasons of water yield. In a great many hill and high country ‘water sensitive’ catchments across Canterbury, ECan have proposed that property owners will not be permitted to plant more than 5% of their property or 100 hectares, whichever is less, in commercial forests – more will require a discretionary consent. This 5% rule was approved in principle by Councillors, despite almost no consultation with the forestry industry or landowners. These catchments together equate to more than 1.3 million hectares of freehold hill country land - a huge tract of land by anyone’s standards!

While it now seems that existing forestry plantings will not be caught by the proposed rules, the chapter is bound for the courts. Put simply, it is unjustifiable, as any rigorous and meaningful RMA section 32 analysis of costs and benefits of council regulation could have shown. The absence of a section 32 report at this late stage of the planning process begs the question ‘should the section 32 analysis proceed or follow the development of a rule’? The Federation certainly feels that any rules should grow out of, not be justified by, a section 32.

Somewhat surprisingly, ECan seem strongly committed to the new forestry rules, convinced perhaps that they have both the science and the public behind them. Federated Farmers and the forest industry disagree. ECan wants to maintain or enhance the percentage of open grassland cover so as to protect the downstream water users and in-stream values. They rationalise their approach by citing the Moutere decision (1996) where Tasman District required trees to be removed from part of a planted catchment for water yield reasons. The Federation, supported by some leading hydrological experts, do not think it is reasonable to extrapolate work done in a very small catchment in Tasman to virtually all the Canterbury foothills.

Why? Well, the climate is different, the rainfall is different, the downstream users are different and the water from many of our catchments is not over-allocated. In addition, there is widespread reversion to woody species (native and exotic – such as gorse and broom) occurring in every catchment. All the experts (even ECan’s) admit that the long-term effect of such reversion is not significantly different to that from plantation forestry, and that the adverse effects on water yield from forestry plantings of less than 20% in a catchment are hardly discernible.

First response

Over Christmas, as part of a Federated Farmers field tour, I visited several identified ‘water sensitive’ catchments. Some are huge tracts of land covering many thousands of hectares covered in native forests and vigorously regenerating scrublands. In other areas the tussock grasslands are forced to compete with Heterium, whilst broom is relentless in its invasion of formerly pastured slopes. My conclusion was that targeting forestry as the ‘bad’ land use is a simplistic diversion away from far greater land management issues.

Melrose

A typical North Canterbury hill country property is Melrose, owned by Dugald and Mandy Rutherford. Approximately 33% of Melrose falls into two of the identified ‘water sensitive’ catchments. The other catchment on the farm has only a small area suitable for planting, as the rest is too remote and susceptible to wilding spread. The Rutherford’s are passionate and committed farm foresters and high country farmers. They farm marginal land, behind Hawarden in North Canterbury. Their farm has no cultivated land and about 50% of it is Class VII or VIII soils. When it comes to farming for profit they don’t have a lot of choices.

ECan’s proposed restriction on planting more than 5% of a property will mean no further plantings can be made on Melrose - as they have already exceeded their threshold.

Prior to the suggested ECan restrictions, the Rutherfords and other hill and high country farm foresters had spent considerable time (1994-2002) contesting restrictions for forestry proposed by the local Hurunui District Council. For some reason, consenting considerations required for land use change involving trees (e.g. visual landscape, and water quantity and quality) are not required for other land use conversions, which can have exactly the same effects. Many of these ‘discussions’ went through formal hearing procedures for which submissions had to be prepared and presented. Even though we know the majority of people like trees (an outcome of a 1999 Federated Farmers survey within the Hurunui District), and that the science and rationale behind our case was fair and reasonable, the opposition’s dislike and ‘fear’ of forestry when it came to crafting permitted regulations hindered a logical compromise being reached.

The Rutherfords have already committed many years of effort into forestry, and battles for the right to practice it. Their vision is that forestry will mean that two, or even three families, can eventually live on the property,
A Douglas fir planting in North Canterbury. Fears about the impact of forestry on water yield are giving rise to restrictive rules which are frustrating local farm foresters. In reality, there is little difference between the impact of plantations and that of the 'natural' scrub reversion going on in the background.

The author (left) with Mandy and Dugald Rutherford in a radiata pine stand on their North Canterbury hill country property 'Melrose'. The Rutherford's goal of using forestry to ensure the long-term economic viability of their property is being frustrated by restrictive rules in district and regional council plans.

where the prospects for one were in doubt before. Their hard work, fueled by this goal, is now starting to reap rewards as early plantings reach harvesting size. I query whether ECAN has the (legal and moral) right to stop this family realising such a logical and laudeworthy vision?

The Rutherfords are justifiably worried about local district and regional regulations concerning forestry, which are likely to financially constrain if not jeopardise their farm business. They estimate their forestry plantings will conservatively earn them between $500-1000 ha/year – compared to sheep at $15-30 ha/year (nett). Forestry is a realistic, and possibly the only, practical and sustainable long-term diversification option.

Interpreting the RMA

Unfortunately, in Canterbury it is misdirected implementation of the Resource Management Act coupled with emotion, rather than science and logic, which has framed the forestry debate so far. A number of environmental and land administration organisations, including most councils, seem to have overlooked the positive aspects of tree planting.

Everyone I think would agree that resource management issues, like the need to ensure that our landscapes remain productive and economic, are of fundamental importance to our future well-being. Unfortunately, our regional and district councils, when considering land use impacts, have tended to focus on activities – in this case forestry – rather than outcomes. Decision-making has become more political and less factual.

In reality, good resource management involves the realistic consideration of ALL aspects of land use – not just forestry. Regional council will not be successful in managing the east coast summer dry by controlling tree planting.

The Federation can only hope that the bigger picture is viewed, and that logic and common sense will eventually prevail. If not, even more resources will be wasted in the Environment Court.

Thankfully the forestry industry is working together, and will stand against these challenges, which to me anyway seem to be more about a fear of change, than the result of a rigorous, but fair and reasonable, planning process.

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