

**IN THE MATTER**

of the Resource  
Management Act 1991  
(RMA)

**AND**

**IN THE MATTER**

of the Environment  
Canterbury: Proposed  
Canterbury Land &  
Water Regional Plan  
(PCLWRP)

**TO BE HEARD BY**

Canterbury Regional  
Council

**HEARING DATE**

27 March 2013

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**Statement of Evidence of Christopher Adrian Hansen on Behalf of  
Ravensdown Fertiliser Co-operative Limited**

**4 February 2013**

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## **Introduction**

1. My name is Christopher Adrian Hansen and I am a Director and Senior Planning Consultant with Chris Hansen Consultants Ltd. My qualifications are a Bachelor of Regional Planning (Hons) from Massey University (1980). I am a full member of the New Zealand Planning Institute and a member of the Resource Management Law Assoc. I have over 30 years' experience in planning and resource management.
2. I have particular experience in the review and assessment of regional plans and the preparation of submissions, attendance at hearings providing expert planning evidence, and in mediation to resolve appeals.
3. I provide the following statement of evidence in support of the submissions and further submissions lodged by the Ravensdown Fertiliser Co-operative Ltd (Ravensdown) to the Proposed Canterbury Land & Water Regional Plan (PCLWRP/proposed Plan). I assisted Ravensdown to prepare their submission(s).
4. I note that Ravensdown submitted on a number of matters that have already been covered by the Fertiliser Association of New Zealand (FANZ). For simplicity, Ravensdown adopts the approach taken by FANZ and the relief it seeks where they are consistent with its submission. I will reference these matters (see the attachment to this evidence), but not cover them in detail in this evidence
5. I have read the Code of Conduct contained in the Environment Court's Practice Notes for Expert Witnesses and agree to comply with it.

## **Outline of Evidence**

6. My approach today is to provide you with an overview of the planning matters raised by Ravensdown, and the relief they sought. I will also comment on the Officer Report's recommendation on that relief.
7. I note that the hearings on the PCLWRP are divided into 4 groups, and my evidence today relates to Hearing Group 1 and in particular the following matters:

### Plan Structure

#### Chapter 1

Chapter 2 (excluding definitions)

Objectives 1 – 23

Strategic Policies 4.1 – 4.8

Strategic Policies 4.1 & 4.2; Tables 1a, 1b & 1c

Discharges

On site/domestic waste water discharges                      Rules 5.7 – 5.10

Stormwater    Rules 5.71 – 5.73

Policies 4.9 to 4.14, 4.20, 4.24

Hazardous Substances, organic matter & hazardous activities

Hazardous substances and contaminated sites              Rules 5.162 – 5.169

Policies 4.21 to 4.23, 4.25

Schedules 3, 4

Miscellaneous

Definitions that do not fit into topics above

## Plan Structure

### Plan Provision: 1.2.6. Managing new and existing Activities (Page 1-6)

8.     **Submission:** Ravensdown noted that it is stated in the 5<sup>th</sup> sentence of this section that when resource consents for infrastructure (irrigation and hydro-electricity schemes) expire, the activity must be assessed as if new even when there is no practical alternative to continuing using the existing infrastructure. This consideration is subject to Part 2 of the RMA. As well as the matters identified in the proposed Plan, it needs to be explicitly acknowledged that Part 104(2A) of the RMA states that: *“the consent authority must have regard to the value of the investment of the existing consent holder”*.
9.     Ravensdown sought for explicit acknowledgement that Part 104(2A) of the RMA states that *“the consent authority must have regard to the value of the investment of the existing consent holder”* be added to the 5<sup>th</sup> sentence of this section.
10.   **Officer Report Comment and Recommendation:** The Officer Report states (Page 52) *“Many submitters request a reference to s104(2A) of the RMA regarding investment recognition and that all existing activities should be considered in the allocation of natural resources.”* The Officer Report

recommends the following addition to the first paragraph of 1.2.6: “For applicants seeking a replacement consent, the RMA provides particular recognition through sections 124-124C and s104(2A) which states that the consent authority must have regard to the value of the investment of the existing consent holder.”

11. **Comment:** I support the Officer Report recommendation and the additional sentence to be added to the first paragraph of Section 1.2.6.
12. **Recommendation:** I recommend the Commissioners accept Officer Report recommendation and amend the first paragraph of Section 1.2.6 accordingly.

### **Plan Provision: Objectives (Page 3-1/2)**

13. **Submission:** Ravensdown made the following are ‘high-level’ submission points:
  - It would be helpful if there was an indication of which policies implement the Objectives;
  - The Objectives are directed towards water resources – a small number of objectives relating to land resources appear as ‘add-ons’ at the end. For example, there is no overarching objective for land as Objective 3.1 is for water;
  - There are a variety of terms/phrases uses in the Objectives that are undefined and may be emotive – these include: ‘respect’; ‘embracing’; ‘protected’, ‘are suitable for use by’, ‘good practice’ – it would be helpful to have such terms/phrases either deleted or replaced with RMA terms. Other terms that place an importance on a resource such as ‘outstanding, significant, high quality’ also need reference to either schedules or assessments that verify such an importance;
  - Objective 3.5 reads: “*Outstanding fresh water bodies and hāpua and their margins are maintained in their existing state or restored where degraded.*” It is considered this Objective expresses well the intent of the proposed Plan, and there seems little need for Objectives 3.6 – 3.10 which seem to divide the fresh water bodies into lakes, rivers, and natural wetlands and sets individual objectives for aspects of

indigenous biodiversity, mauri, health of ecosystems and natural character.

14. Ravensdown sought for the above matters to be addressed through amendments to the proposed Plan – some recommended amendments are outlined in their submission.
15. **Officer Report Comment and Recommendation:** The Officer Report supports the cross-referencing of objectives and implementing policies (P.47). The 3 first bullet points of Ravensdown’s submission are referenced on P.79 of the Officer Report. The matter raised in the fourth bullet point is not addressed here, nor when considering Objective 3.5 later in the Officer Report.
16. **Comment:** In relation to the first bullet point, the Officer Report expresses support for cross-referencing referred to on P.47. Notwithstanding this, there does not appear to be any evidence in the recommendations that this idea has been adopted. I support the suggestion that cross-referencing be adopted as I consider it will assist with the readability of the Plan and future interpretation by resource users and Council staff.
17. Similarly, the second and third bullet points are referenced in the Officer Report, but there appears to be no recommendation relating to them. I am concerned that overall the proposed Plan is water focussed, and I believe this is a matter the Commissioners will need to consider when assessing the wide range of submission on land matters. Concerns relating to definitions are raised later when particular plan provisions are addressed.
18. **Recommendation:** I recommend the Commissioners note the Officer Report recommendation that cross-referencing be adopted and ensure this occurs, and note the other matters raised by Ravensdown when considering submissions on these matters.

### **Plan Provision: Objective 3.1 (Page 3-1)**

19. *“Water is recognised as essential to all life and is respected for its intrinsic values.”*
20. **Submission:** Ravensdown submitted the term *“respected”* is not defined, and it is not clear in RMA terms what this might mean. It is also considered this objective should also incorporate land resources.

21. Ravensdown sought Objective 3.1 to be amended to read (or similar):  
*“Water and land is recognised as essential to all life and ~~is respected~~ for its intrinsic values.”*
22. **Officer Report Comment and Recommendation:** The Officer Report identifies the relief sought on Page 80, but no change is recommended. The Officer Report states (Page 97) *“Generally, submitters who have sought weakening of the objectives through the addition of phrases such as “wherever practicable”, “best practicable option” or “while avoiding remedying or mitigating environmental effects” have not been supported in the recommendations.”*
23. **Comment:** While the Officer Report acknowledges the relief sought by Ravensdown, there is no commentary on why the change requested has not been adopted. I can only assume the Officer Report considers the amendments are weakening the Objective. I am concerned as to whether there is a clear understanding of what ‘*respected*’ means in the RMA context. This term is not defined in the Act, nor used in key sections of Part II. While I accept a common dictionary meaning of the term can be adopted, I consider it is appropriate to question the intent of including it in this Objective. If the concern is deleting this term weakens the Objective, I question such a position as I do not consider this concern has merit. I do not consider deleting the term weakens the Objective, as proposed by Ravensdown in its submission. I note Ravensdown also sought ‘*and land*’ to the Objective to balance the focus on water identified in its general submission points (referred to above). In particular I note Objective 3.3 (recommended to now be Objective 3.17) specifically recognises Ngai Tahu’s link with Canterbury’s land and water. I consider an amendment to other Objectives is appropriate and reflects the integrated resource management approach of the proposed Plan, which addressed land and water issues.
24. **Recommendation:** I recommend the Commissioners adopt the submission by Ravensdown and amend Objective 3.1 as requested.

#### **Plan Provision: Policies (Page 4-1)**

25. **Submission:** Ravensdown made the following are ‘high-level’ submission points:

- It would be helpful if there was an indication of which rules implement the policies (and which policies implement the Objectives);
  - The Strategic Policies (Policies 4.1 – 4.8) are all water related, with no strategic policies for land. This seems to support the concerns raised that Objectives are heavily water orientated;
  - There is no reference to Schedule 8 (Industry Derived Nitrogen Discharges) in the Strategic Policies;
  - The policies are not written using the SMART approach (specific; measurable; achievable; realistic and with timeframes). As a result many are poorly written and require clarification and amendment;
  - Policy 4.1 introduces the outcomes for Canterbury rivers, lakes and aquifers. The appropriateness of these figures to represent the outcomes being expressed through the Objectives and Policies is questioned;
  - Throughout the policies there is reference to ‘catchments’, however these are not water catchment areas, but catchment committee boundaries. This causes some confusion when considering policies.
26. Ravensdown sought for the above matters to be addressed through amendments to the proposed Plan – some recommended amendments are outlined in their submission.
27. **Officer Report Comment and Recommendation:** The Officer Report states on Page 100 that Ravensdown felt the policies are poorly written and also reference Ravensdown’s reference to Catchments. The other ‘high-level’ matters are not referenced.
28. **Comment:** In relation to the first two point, my comments above regarding cross-referencing Plan provisions and the need to include land apply – I note all of the Strategic Policies are water related. In relation to the third point, I consider this is an important point as Schedule 8, when completed, will be a very important tool for establishing nitrogen rates for rural activities, and recognising this tool in the strategic policies would strengthen its importance and could give a clear indication of how it will be utilised.
29. In relation to the 4<sup>th</sup> point, I am surprised that the Officer Report only records that Ravensdown felt the policies are poorly written. I consider this comment is made out of context, and implies Ravensdown is overly critical. It is

recognised planning practice to test plan provisions against the SMART provisions, and Ravensdown was suggesting that the as a result of such a test, many of the policies needed refinement. This submission was made at a 'higher level' as a suggested way of assisting to get good policies, rather than to criticise the policies themselves. In relation to the definition of Catchment, I address this matter at the end of this evidence.

30. **Recommendation:** I recommend the Commissioners adopt the relief sought by Ravensdown and amend the proposed Plan provisions accordingly.

## Discharges

### Plan Provision: Rule 5.7 (Page 5-3)

31. **Submission:** Ravensdown has a number of stores in the region, and stormwater discharges are an important aspect of its operations. Overall Ravensdown considers the rule provisions are appropriate, and supports its intent.
32. **Officer Report Comment and Recommendation:** The Officer Report deals with submissions on Rule 5.7 on Pages 156 – 157. The Officer Report recommends adding reference to 'domestic' wastewater treatment in the rule; exempts sites that store hazardous substances that already have consents Condition 6 (b); and adds a new clause Condition 6 (h) "*where there is, at any time, less than 1 m of vertical separation between the discharge point and groundwater*".
33. **Comment:** I note that Ravensdown referenced its stormwater discharges as the reason for supporting the rule. This support should have been for the wastewater activities that occur on some of its sites, such as from the truck wash facilities and wash down areas. I further note there a number of amendments to the Rule that may or may not be a concern, and some clarification may be needed. For example, adding the term 'domestic' to the Rule may be an issue. I note 'domestic' is not defined in the proposed Plan, and the common Oxford Dictionary definition suggests an activity relating to a home or family rather than an industrial activity. This may mean Rule 5.7 no longer applies to Ravensdown's wastewater activities, and if this interpretation is adopted, it would not appear that there is provision in the proposed Plan for



Ravensdown's wastewater activities. In relation to the exemption recommended in Condition 6 (b), I support this amendment which I consider is appropriate and necessary. In relation to the new Condition 6 (h), I note FANZ has addressed this matter in their evidence in relation to the same provision being included in Rule 5.72, and I adopt their comment. In particular, FANZ sought for Rule 5.72 to be amended to clarify that it does not apply to lawfully established infrastructure and any associated (and existing) stormwater discharge points – I believe the same clarification is required here.

34. **Recommendation:** I recommend the Commissioners adopt the Officer Report recommendation to amend Rule 5.7, apart from the following matters: reject the inclusion of the term 'domestic' if it is determined to exclude Ravensdown's wastewater activities; clarify that Condition 6 (h) does not apply to lawfully established infrastructure and any associated (and existing) wastewater discharge points.

## **Hazardous Substances, organic matter & hazardous activities**

### **Plan Provision: Policy 4.22 (Page 4-7)**

35. *“Activities involving the use, storage or discharge of hazardous substances will be undertaken using best practicable measures to:*  
*(a) as a first priority, avoid the discharge (including accidental spillage) of hazardous substances onto land or into water, including reticulated stormwater systems; and*  
*(b) as a second priority, to ensure, where there is a residual risk of a discharge of hazardous substances including any accidental spillage, it is contained on-site and does not enter surface water bodies, groundwater or stormwater systems.”*
36. **Submission:** Ravensdown has facilities (such as Hornby) that use and store hazardous substances. Ravensdown considered this policy is pragmatic and is supported.
37. **Officer Report Comment and Recommendation:** The Officer Report recommends Policy 4.22 remains relatively unchanged, but is amended to address the following matter raised by Horticulture NZ: *“Horticulture New Zealand asks that 4.22(a) include an exclusion for discharge of substances*

*approved under HSNO to be applied onto land or into water, such as fertiliser and agrichemicals. While there are rules providing for the application of fertiliser and agrichemicals as a permitted activity there is no associated policy. It is therefore appropriate to recognise that some hazardous substances need not be subject to the requirement that all discharges should be avoided.”* The Officer Report recommends the following to be added to the end of Policy 4.22: *“unless the substance is approved under HSNO to be applied to land or into water.”*

- 38. **Comment:** I agree with the additional wording recommended in the Officer report to be added to Policy 4.22.
- 39. **Recommendation:** I recommend the Commissioners adopt the Officer Report recommendation and amend Policy 4.22 accordingly.

#### **Plan Provision: Definition - Catchments**

- 40. **Submission:** Throughout the policies there is reference to ‘catchments’, however these are not water catchment areas, but catchment committee boundaries. This causes some confusion when considering policies.
- 41. Ravensdown sought for clarity regarding the use of ‘catchment’ and in particular when reference to ‘catchment’ relates to water flow, or when ‘catchment’ refers to committee administrative boundaries, or sub-regional zones.
- 42. **Officer Report Comment and Recommendation:** The Officer Reports notes three submissions sought for ‘catchments’ to be defined, and states the matter is covered under Policy 4.53. The Officer Report does not recommend a definition of ‘catchment’ to be added.
- 43. **Comment:** I note that Section 4.3 of the Officer Report identifies proposed definitions, and identifies the term ‘catchment’ is covered in Section 6.2 of the Report. In Section 6.2 it states the matter is addressed in the discussion under Policy 4.53. However, this discussion relates to issues around water transferring between catchments, and not the issue Ravensdown was making regarding the use of ‘catchments’ to define areas covered by the zone committee. Ravensdown’s concerns have not been addressed in the Officer Report. I note the Oxford Dictionary defines ‘catchment’ as *“the action of*

*collecting water, especially the collection of rainfall over a natural drainage area.” I would suggest a definition of ‘catchment’ that clearly recognises the physical nature of water catchment area is better suited than one that reflects administrative boundaries. Notwithstanding this, Council may wish to include a definition that relates specifically to administration boundaries covered by the zone committees, and use that term when specifically referencing that matter.*

44. **Recommendation:** I recommend the Commissioners adopt the request by Ravensdown to add a new definition of ‘catchment’ that reflects the physical nature of water catchment areas.

**Plan Provision: Rule 5.2 (Page 5-2)**

*“Unless specifically stated to the contrary, any rule on the same subject matter in the relevant sub-regional zones in Sections 6-15 of this Plan prevails over the relevant rule of Section 5.”*

45. **Submission:** Ravensdown considered this is an unusual rule regime, and may cause confusion now and in the future when further provisions are added to the sub-regional areas. There is the possibility that the introduction of a regional plan in the sub-region does not cover the same subject matter as the proposed Plan covers, and therefore the activities may be subject to two sets of rules under two separate plans. An example of this may be the nutrient discharge rules under the proposed Plan which are not included in the Proposed Hurunui Waiau River Regional Plan. Ravensdown wished to raise concerns about how the hierarchy of rules work, and seeks clarity around how it will be determined one rule prevails over another
46. **Officer Report Comment and Recommendation:** Officer Report does not reference Ravensdown’s submission or the issue it raises. The Officer Report recommends an amendment to the rule to clarify that Rule 5.5 (relating to recovery activity) prevails in all situations.
47. **Comment:** I am concerned about the possibility of have a number of rules covering a particular physical area that controls land use activities in that area. While I accept this matter may be addressed further in Hearing Group 2, Ravensdown’s submission raises this issue in particular to Rule 5.2. The rule

itself is unclear, as I consider there is an opportunity to interpret what the phrase “*on the same subject matter*” differently. My concern is further compounded by the Officer Report statement on in response to a submission by the Hurunui Water Project seeking clarification of which plan provisions prevail when considering the Proposed Hurunui Waiau River Regional Plan and the proposed Plan (Page 74): “*The detail of relationships with other plans will continue to be subject to some interpretation, particularly where there are partial overlaps in rule frameworks or rules triggered by different criteria. This is a particular difficulty in relation to the Proposed Hurunui Waiau River Regional Plan that is currently under development, as there is not yet certainty as to the objective, policy and rule framework being developed.*” In my view, such uncertainty is unacceptable and does not represent good planning practice.

48. In addition, as highlighted in the evidence presented on behalf of FANZ, the proposed Plan relies on planning provisions (in this case Sections 6 – 15) that are not yet established and that will need to go through further plan preparation processes that adds to the uncertainty.
49. **Recommendation:** I recommend the Commissioners note the concerns raised by Ravensdown regarding the certainty around the relationship of the proposed Plan provisions and other plans, and clarify these matters as it decides on the submissions.

Chris Hansen

4 February 2013

## **Attachment 1 – Matters Covered by FANZ Evidence Adopted by Ravensdown**

The following Ravensdown submission points have been covered by the evidence presented on behalf of FANZ which is adopted by Ravensdown:

### **Section 1- Introduction, Issues and Major Responses (Page 1-1)**

**Plan Provision: Objective 3.3 (Page 3-1)**

**Plan Provision: Objective 3.5 (Page 3-1)**

**Plan Provision: Objective 3.6 (Page 3-1)**

**Plan Provision: Objective 3.7 (Page 3-1)**

**Plan Provision: Objective 3.8 (Page 3-1)**

**Plan Provision: Objective 3.9 (Page 3-1)**

**Plan Provision: Objective 3.10 (Page 3-1)**

**Plan Provision: Objective 3.17 (Page 3-2)**

**Plan Provision: Objective 3.21 (Page 3-2)**

**Plan Provision: Objective 3.22 (Page 3-2)**

**Plan Provision: Policy 4.1 (Page 4-1)**

**Plan Provision: Policy 4.2 (Page 4-1)**

**Plan Provision: Policy 4.3 (Page 4-1)**

**Plan Provision: Policy 4.10 (Page 4-5)**

**Plan Provision: Policy 4.11 (Page 4-5)**

**Plan Provision: Rule 5.72 (Page 5-17)**

**Plan Provision: Rule 5.73 (Page 5-17)**

**Plan Provision: Rule 5.162; 5.163 (Page 5-37)**

**Plan Provision: Rule 5.164 (Page 5-37/38)**

**Plan Provision: Schedule 3 – Hazardous Industries (Page 16-5/6)**

**Plan Provision: Definition – Property**