

**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  
the Fertiliser Association of New Zealand**

**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 submission and further submission lodged by the Fertiliser Association of New Zealand (FANZ) (previously the New Zealand Fertiliser Manufacturers Research Association) to the Proposed Canterbury Land & Water Regional Plan (PCLWRP/proposed Plan). I assisted FANZ to prepare their submission(s).
4. 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**

5. My approach today is to provide you with an overview of the planning matters raised by FANZ, and the relief they sought. I will also comment on the Officer Report's recommendation on that relief. I also note that the FANZ is a supporter of the technical expert evidence presented by (amongst other people) Ms Hayward and Mr Butcher, and I reference their evidence below when it is relevant to the matters raised by FANZ.
6. 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

Objectives 1 – 23

Strategic Policies 4.1 – 4.8

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

## Discharges

Stormwater

Rules 5.71 – 5.73

Policies 4.9 to 4.14

## Hazardous Substances, organic matter & hazardous activities

Hazardous substances and contaminated sites

Rules 5.162 – 5.169

Schedule 3

## Miscellaneous

Definitions that do not fit into topics above

## **Plan Structure**

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

7. **Submission:** FANZ is concerned that in Section 1.1.1 '*Land and Water Resources in Canterbury*' the description of issues and major responses regarding resources such as fresh water and land and the need to protect them, fails to identify the need to provide for the use of these resources sustainably in order to ensure economic growth, social and cultural well-being outcomes.
8. The submitter considers one of the most important issues impacting on the management of land and water resources in the Canterbury Region is the need to manage resources while at the same time providing for economic growth and development and this issue should be clearly acknowledged. It is felt there has been insufficient detailed analysis of the potential economic impact of controls proposed by this proposed Plan.
9. FANZ sought for Section 1.1.1 to include reference to the issues arising from the need to manage land and water resources and the importance of providing for economic growth and development, and social and cultural wellbeing outcomes.
10. **Officer Report Comment and Recommendation:** No change is recommended.
11. **Comment:** In my view, the matter raised by the submitters is the very purpose of the Resource Management Act (the Act) which is to promote the sustainable management of natural and physical resources. This is about managing the use, development and protection of natural and physical

resources in a way, or at a rate, that enables people and communities to provide for the social and economic and cultural well-being.

12. In essence, this is at the very core of what the CRC needs to address in the proposed Plan in the context of the guidance given through the provisions of Part II of the Act, other relevant parts of the Act (including the s.32 evaluation), and key planning documents such as the NES for Freshwater Management and the Canterbury RPS. In my view, the need to address this matter should be clearly acknowledged in the proposed Plan.
13. This challenge is not an either/or exercise. The challenge is to get the right 'balance' for the Canterbury community between the need to manage natural and physical resources while at the same time enabling for economic growth and development (which enables social and economic well-being). The proposed Plan rightly includes provisions to manage the sustainable management of natural and physical resources, but fails, in my view, to recognise the need to enable economic growth and development. For example, in my view there is insufficient detailed analysis in the s.32 Report of the potential economic impact of regulatory framework proposed in this proposed Plan. I note the economic benefits to the Canterbury region of agriculture (and irrigation) are addressed by Mr Butcher (evidence presented on behalf of Dairy NZ/Fonterra). In particular in paragraph 3.2 of his evidence, he suggests that irrigation in Canterbury increases direct farm output by \$3.0 billion per year and GDP by \$1.5 billion per year and that once multiplier effects are taken into account, irrigation increases regional GDP by \$3.3 billion per year, generating 25,000 jobs (para. 3.3).
14. **Recommendation:** I recommend the Commissioners amend Section 1.1.1 to include as an issue the need to enable social and economic well-being, clearly linked to a planning response that demonstrates how economic growth and development is to be promoted through the proposed Plan provisions. This response needs to be supported by a robust s.32 evaluation of the benefits and costs of the particular proposed Plan provisions (policies, rules or methods).

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

15. *“The relationship of Ngāi Tahu and their culture and traditions with the water and land of Canterbury is protected.”*
16. **Submission:** The use of the term “*protected*” is not defined in the proposed Plan. FANZ is concerned that Objective 3.3 extends the policy context beyond what decision makers are to ‘*have particular regard to*’ under Schedule 1 of the ECan Act. Furthermore, in achieving the purpose of the Resource Management Act 1991 (RMA), in relation to managing the use, development, and protection of natural and physical resources, recognition and provision is to be given to the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga under section 6(e). This does not require that such values be ‘*protected*’.
17. FANZ is therefore concerned that Objective 3.3 does not align with section 6(e) of the RMA and extends a very broad level of protection to sites and areas of importance to Ngai Tahu. FANZ consider that the objective needs to be amended to better reflect both the matters provided for under Schedule 1 of the ECan Act and the provisions contained within section 6 (e) of the RMA.
18. FANZ sought for Objective 3.3 to be amended to read (or similar):  
*“The relationship of Ngāi Tahu and their culture and traditions with the water and land of Canterbury is ~~protected~~ recognised and provided for.”*
19. **Officer Report Comment and Recommendation:** The Officer Report recognises the relief sought on Page 81; and recommend Objective 3.3 (which is now Objective 3.17 that reads: *“The relationship of Ngāi Tahu and their culture and traditions with the water and land of Canterbury is recognised and enabled.”*) be changed to ‘*recognised and enabled*’ (Page 98).
20. **Comment:** I support the Officer Report recommendation as the proposed wording is similar to that which FANZ sought, and similar (in intent) to s.6 of the Act. Furthermore, I consider this approach should be adopted elsewhere in the proposed Plan, as sought by FANZ in other submission points (to be addressed below).
21. **Recommendation:** I recommend the Commissioners adopt the Officer Report recommendation and amend Objective 3.3 accordingly.

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

22. *“Outstanding fresh water bodies and hāpua and their margins are maintained in their existing state or restored where degraded.”*
23. **Submission:** FANZ considers there is a need to define ‘*outstanding*’ in terms of a reference to an assessment in a schedule of such water bodies. Furthermore, the submitter consider the use of the management approach “*maintained in their existing state or restored where degraded*” is appropriate, and should be adopted in other Objectives and Policies.
24. FANZ supported the intent of Objective 3.5 and sought a Schedule of ‘*outstanding*’ fresh water bodies and hāpua and their margins be included in the proposed Plan for clarity. The submitter also sought for the management approach to “*maintained in their existing state or restored where degraded*” be retained, and adopted elsewhere as sought below.
25. **Officer Report Comment and Recommendation:** The Officer Report identifies the Schedule sought by FANZ on Page 81. There is no change recommended to Objective 3.5 (which is now Objective 3.12). On page 126-127 of the Officer Report “*outstanding fresh water bodies*” are defined with a reference that they will be listed in the sub-regional sections 6-15.
26. **Comment:** I acknowledge the recommendation that Objective 3.5 be replaced with Objective 3.12, and the retention of the management approach, which I support. Objective 3.12 reads: “*Outstanding fresh water bodies and hāpua and their margins are maintained in their existing state or restored where degraded.*” The submitter also sought a Schedule to be included in the proposed Plan that clearly identifies the outstanding freshwater bodies and hāpua and their margins. While the need for a request for a Schedule is noted in the Officer Report, I do not consider in principle it is good planning practice or appropriate to leave the preparation of the Schedule to the Section 6 - 15 processes as there are no timeframes regarding when these sections may be completed. There are policies, rules and methods in the proposed Plan that address the management of the outstanding water bodies and hāpua and their margins, but it is not known where these provisions will apply or what the implications of the provisions will be on the resource user. This may lead to uncertainty and confusion, and in the interim (i.e. while the Section 6 – 15

plan change process occurs – which could take a number of years), it is not clear what areas the proposed Plan provisions apply, and this uncertainty needs addressing. I do acknowledge the definition of ‘*outstanding freshwater bodies*’ includes ‘*high naturalness waterbodies*’ which are listed in Sections 6 to 15. However, the definition also includes hāpua, natural wetlands and natural state water bodies that are listed in Sections 6 – 15. One option may be to have the proposed Plan identify a timeframe by which Council will provide the Schedule in Sections 6 – 15 (say two years) that contains a list of hapua, natural wetlands and natural state water bodies which could go some way to addressing my concerns. However, I am not in a position to know whether the information is readily available to Council to have a Schedule ready to be introduced within two years, and I am unclear whether Council would wish to introduce plan changes before the rest of the work on the Sections is completed. These matters may make this option impracticable.

27. **Recommendation:** I recommend that the Commissioners adopt the Officer Report recommendation to maintain the management approach of “*maintained in their existing state or restored where degraded*” in Objective 3.5 [now Objective 3.12]. I also recommend the Commissioners require the inclusion of a Schedule in the proposed Plan that clearly identifies the outstanding fresh water bodies (as defined in the proposed Plan) and hāpua and their margins in the Canterbury Region.

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

28. “*The significant indigenous biodiversity values of natural wetlands and hāpua are protected and wetlands in Canterbury that contribute to cultural and community values, biodiversity, water quality, mahinga kai or ecosystem services are enhanced.*”
29. **Submission:** Similar to comments above, FANZ considers the ‘*significant*’ values referenced in the Objectives need to be established and referenced in a Schedule. In addition, it is likely that all wetlands in Canterbury contribute to one of the elements identified, and therefore need to be enhanced. It is considered that Objective 3.5 would achieve this objective, as wetland is included in the definition of water body in the RMA. If this Objective is not

- deleted, it should reflect the need for wetlands to be “*maintained in their existing state or restored where degraded*” approach as supported above.
30. FANZ sought for either Objective 3.6 to be deleted, or as an alternative amended as follows (or similar):
- “The significant indigenous biodiversity values (as defined in Schedule XX) of natural wetlands and hāpua ~~are protected~~ and wetlands in Canterbury that contribute to cultural and community values, biodiversity, water quality, mahinga kai or ecosystem services are ~~enhanced~~ maintained in their existing state or restored where degraded.”*
31. **Officer Report Comment and Recommendation:** The Officer Report identifies the relief sought by FANZ on Page 82. The first part of the relief sought is not accepted, while the second part is accepted in part with a recommendation that ‘*enhanced*’ be changed to ‘*maintained*’ in Objective 3.6 (now Objective 3.13) (Page 98).
32. **Comment:** I acknowledge the recommendation that Objective 3.6 is now Objective 3.13 which states: “*The significant indigenous biodiversity values of rivers, natural wetlands and hāpua are protected and wetlands that contribute to cultural and community values, biodiversity, water quality, mahinga kai, water cleansing and flood retention properties are maintained.*” I also note the proposed Plan defines “*Significant Indigenous Biodiversity*” as areas or habitats that meet one or more of the criteria in Appendix 3 to the Canterbury RPS. I note “*Significant Indigenous Biodiversity Values*’ is not defined.
33. In relation to the first point, I have similar comments as above regarding the need to ensure the indigenous biodiversity values considered significant are identified and included in a Schedule so a resource user can determine whether the proposed Plan provisions that implement this Objective apply to them. The other matters discussed above regarding how this might be achieved are applicable. I note that the significant indigenous biodiversity values are still required to be ‘*protected*’. I do not consider this is consistent with s.6(c) of the Act which requires, as a matter of national importance, the recognition and provision for the protection of areas (i.e. not values) of significant indigenous vegetation and significant habitats of indigenous fauna. I also note s.7 (d) of the Act requires intrinsic values of ecosystems to be given particular regard to.



I therefore consider Objective 3.13 as currently written is not appropriate and should be rewritten to be consistent with the Act by stating that particular regard will be given to significant indigenous biodiversity values. Furthermore, I believe these values have not been established and need to be included in a Schedule. Without these amendments it is unclear how a resource user will be affected. In relation to the second point, the Officer Report recommendation to amend the wording from ‘enhanced’ to ‘maintained’ applying to wetlands is only part of the matter raised by FANZ. I consider for consistency the management approach “*maintained in their existing state or restored where degraded*” is appropriate.

34. **Recommendation:** I recommend the Commissioners adopt the relief sought by FANZ and require the inclusion of a Schedule in the proposed Plan that clearly identifies what the significant indigenous biodiversity values are and where in the Canterbury Region they are found, and amend the new Objective 3.13 as follows: delete the term ‘protected’ and replace it with “*will be given particular regard to*” to be consistent with the Act; delete ‘enhanced’ and change it to ‘*maintained in their existing state or restored where degraded*’.

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

35. “*The mauri of lakes, rivers, hāpua and natural wetlands is maintained or restored and they are suitable for use by Ngāi Tahu and the community.*”
36. **Submission:** Similar to comments made above, FANZ considers the achievement of Objective 3.5 would mean Objective 3.7 is not needed. Should Objective 3.7 be retained, the term “*and they are suitable for use*” is uncertain and should be deleted, and a consistent management approach as taken in Objective 3.5 should be adopted.
37. FANZ sought for either Objective 3.7 to be deleted, or as an alternative amended as follows (or similar):  
“*The mauri of lakes, rivers, hāpua and natural wetlands is maintained in the existing state or restored where degraded and they are suitable for use by Ngāi Tahu and the community.*”
38. **Officer Report Comment and Recommendation:** The Officer Report identifies the relief sought by FANZ on Page 82. Objective 3.7 seems to have

been incorporated into Objective 3.12 which reads: “*Outstanding fresh water bodies and hāpua and their margins are maintained in their existing state or restored where degraded.*”

39. **Comment:** I support the recommendation that Objective 3.7 be melded into Objective 3.12, and now uses a management approach proposed by FANZ.
40. **Recommendation:** I recommend the Commissioners adopt the Officer Report recommendation by deleting Objective 3.7 and accepting the proposed wording included in the new Objective 3.12.

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

41. “*The health of ecosystems is maintained or enhanced in lakes, rivers, hāpua and wetlands.*”
42. **Submission:** Similar to comments made above, FANZ considers the achievement of Objective 3.5 would mean Objective 3.8 is not needed. Should this Objective remain, the Objective should apply to natural water bodies, and a similar management approach be adopted as in Objective 3.5.
43. FANZ sought for either Objective 3.8 to be deleted, or amended as follows (or similar):
- “*The health of ecosystems is maintained in its existing state or enhanced where degraded in natural lakes, rivers, hāpua and wetlands.*”
44. **Officer Report Comment and Recommendation:** The Officer Report identifies the relief sought by FANZ on Page 83. It is recommended that Objective 3.8 be incorporated into a new Objective 3.10 which reads: “*The quality and quantity of water in fresh water bodies and their catchments is managed to safeguard the life-supporting capacity of ecosystems and ecosystem processes, including ensuring sufficient flow and quality of water to support the habitat and feeding, breeding, migratory and other behavioural requirements of indigenous species, nesting birds and, where appropriate, trout and salmon.*” – safeguard life-supporting capacity of ecosystems.
45. **Comment:** I acknowledge the recommendation that Objective 3.8 be deleted and incorporated into a new Objective 3.10. I consider the new wording of Objective 3.10 is consistent with the wording of the Act and is appropriate when read together with the other objectives.

46. **Recommendation:** I recommend the Commissioners adopt the Officer Report recommendation by deleting Objective 3.8 and adopting the new Objective 3.10 as it is proposed in the Officer Report.

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

47. *“The existing natural character values of alpine rivers are protected.”*
48. **Submission:** Similar to comments made above, the achievement of Objective 3.5 would mean Objective 3.9 is not needed. Should this Objective remain, it should apply to recognised outstanding natural character values listed in a new Schedule to the proposed Plan, and a similar management approach be adopted as in Objective 3.5.
49. FANZ sought for either Objective 3.9 to be deleted, or as an alternative amended as follows (or similar):
- “The existing outstanding natural character values of alpine rivers (as defined in Schedule XX) are ~~protected~~ maintained in their existing state or restored where degraded.”*
50. **Officer Report Comment and Recommendation:** The Officer Report identifies the relief sought by FANZ on Page 83. It is recommended Objective 3.9 be melded into Objective 3.14 with natural character to be protected. There is no reference to Alpine Rivers but a more generic reference to freshwater bodies is made, and there is no mention of a schedule.
51. **Comment:** I acknowledge the recommendation that Objective 3.9 be deleted and be incorporated into Objective 3.14 which states: *“Natural character values of freshwater bodies, including braided rivers and their margins, wetlands, hāpua and coastal lagoons, are protected.”* In my view, the new Objective 3.14 is appropriate from the perspective that it addresses natural character values of all freshwater resources (i.e. not just Alpine Rivers), and I support deleting Objective 3.9. Notwithstanding this, as previously discussed I believe the proposed Plan needs a Schedule of the natural character values that need to be managed. I am also concerned that Objective 3.14 requires the protection of these values, when the Act requires natural character to be preserved (s.6(a)). While I accept that ‘*protection*’ can be appropriate and necessary in some cases as a way to ‘*preserve*’ natural character values, I

consider the Objective needs to be consistent with the intent of the Act, and the options of management (including protection but also “*recognise and provide for*” as discussed in relation to Objective 3.3 above) are matters that need to be determined through policies and methods (to implement the Objective) and in accordance with recognising which values require such management through a Schedule.

52. **Recommendation:** I recommend the Commissioners accept the Officer Report recommendation to delete Objective 3.9 and introduce a new Objective 3.14 that applies to natural character values of all freshwater bodies, with amendments to that objective that requires these values to be ‘*preserved*’ and requires the values to be recognised and provided for to be consistent with the Act. I also recommend the Commissioners adopt the relief sought by FANZ and require a Schedule that clearly identifies “*natural character values of freshwater bodies*” be included in the proposed Plan.

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

53. “*The significant indigenous biodiversity values, mahinga kai values, and natural processes of rivers are protected.*”
54. **Submission:** Similar to comments made above, FANZ consider the achievement of Objective 3.5 would mean Objective 3.10 is not needed. Should this Objective remain, it should apply to recognised significant indigenous biodiversity values listed in a new schedule to the proposed Plan, and a similar management approach be adopted as in Objective 3.5.
55. FANZ sought for either Objective 3.10 to be deleted, or amended as follows (or similar):
- “*The significant indigenous biodiversity values (as defined in Schedule XX), mahinga kai values, and natural processes of rivers are ~~protected~~ maintained in their existing state or restored where degraded.*”
56. **Officer Report Comment and Recommendation:** The Officer Report identifies the relief sought by FANZ on Page 84. It is recommended Objective 3.10 be melded into Objective 3.13, without adopting the relief sought within the FANZ submission. The values are protected.

57. **Comment:** I acknowledge the recommendation that Objective 3.10 be deleted and be incorporated into Objective 3.13 which reads: *“The significant indigenous biodiversity values of rivers, natural wetlands and hāpua are protected and wetlands that contribute to cultural and community values, biodiversity, water quality, mahinga kai, water cleansing and flood retention properties are maintained.”* My comments above on Objective 3.6 and the [new] Objective 3.13 apply. In particular, I consider that Objective 3.13 needs to reference a Schedule of significant indigenous biodiversity values, and be amended as per the relief sought by FANZ in its submission to be consistent with s.6(c) of the Act.
58. **Recommendation:** I recommend the Commissioners accept the Officer Report recommendation to delete Objective 3.10 and incorporate it into Objective 3.13. I also recommend the Commissioners adopt the relief sought by FANZ and require the inclusion of a Schedule in the proposed Plan that clearly identifies what the significant indigenous biodiversity values are and where in the Canterbury Region they are found, and amend the new Objective 3.13 as follows: delete the term ‘*protected*’ and replace it with *“will be given particular regard to”* to be consistent with the Act; delete ‘*enhanced*’ and change it to *‘maintained in their existing state or restored where degraded’*.

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

59. *“The mauri and the productive quality and quantity of soil are not degraded.”*
60. **Submission:** While the intent of this Objective appears to ensure that soil as a resource is managed to ensure it is not degraded, the very nature of most farming activities mean that some damage to the soil resource occurs, particularly under cultivation. FANZ considers it is not clear how any degradation of the mauri, productive quality and quantity of soil will be measured, and what steps might be taken to achieve the Objective. Further, in giving effect to the CRPS relating to the enhancement of soil quality, where this has been degraded, FANZ considers that it is appropriate to adopt the phrase *“or where practicable”* given that it will not be possible to achieve the enhancement of soils in all cases.
61. FANZ sought for Objective 3.17 to be amended to read (or similar):

62. *“The mauri and the productive quality and quantity of soil are ~~not degraded~~ maintained or where practicable enhanced.”*
63. **Officer Report Comment and Recommendation:** The Officer Report identifies what being sought by FANZ on Page 88. It is recommended Objective 3.17 be replaced by a new Objective 3.19: *“Soils are healthy and human-induced erosion or contamination is minimised.”*
64. **Comment:** I acknowledge the recommendation that Objective 3.17 be deleted and incorporated in to a new Objective 3.19. Overall I support the intent of the new Objective, but question how ‘healthy’ and ‘minimised’ are to be determined. In some cases soils can be made healthy by adding substances (such as fertilisers) which may also be considered as a contaminant. Some definition of what ‘healthy’ may mean and what human induced ‘contamination’ is intended to be minimised would be helpful.
65. **Recommendation:** I recommend the Commissioners accept the Officer Report recommendation to delete Objective 3.17 and incorporate it into Objective 3.19, subject to clarification of the how ‘healthy’ and ‘minimised’ are to be determined.

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

66. *“Land uses continue to develop and change in response to socio-economic and community demand while remaining consistent with the CWMS targets.”*
67. **Submission:** FANZ considers that developing land uses may not necessarily mean change in land use (when considering the proposed Plan definition of ‘changed’), and the Objective should reflect this.
68. FANZ sought for Objective 3.21 to be amended to read (or similar):  
*“Land uses continue to develop and/or change in response to socio-economic and community demand while remaining consistent with the CWMS targets.”*
69. **Officer Report Comment and Recommendation:** The Officer Report identifies the relief being sought by FANZ on Page 90. It is recommended Objective 3.21 become Objective 3.5, with no amendments recommended.
70. **Comment:** I acknowledge the recommendation that Objective 3.21 become 3.5, without amendment. The concern I have relates to how the term “develop and change” will be interpreted in this Objective – I consider it is possible to

develop a land use (i.e. increase sheep numbers) without changing the land use itself (i.e. changing from sheep to dairy), and it is difficult to understand how this Objective will be interpreted while there are questions regarding the definition of “*changed*” as it relates to land uses (raised by the submitter in its submission – to be addressed in Hearing Group 2). The amendment sought intended to simply acknowledge that land use can be developed and/or change.

71. **Recommendation:** I recommend that, in the absence of any explanation within the Officer Report, the Commissioners adopt the relief sought by the FANZ and amend the renumbered [new] Objective 3.5 to read: “*Land uses continue to develop and/or change in response to socio-economic and community demand while remaining consistent with the CWMS targets.*”

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

72. “*Community outcomes for water quality and quantity are met through managing limits.*”
73. **Submission:** FANZ considers there are other aspects to achieving community outcomes, other than just managing limits – including adopting non-regulatory approaches. The submitter considered the Objective should provide for a broader suite of management approaches.
74. FANZ sought for Objective 3.22 to be amended to read (or similar):  
“*Community outcomes for water quality and quantity are met through a range of regulatory and non-regulatory management tools ~~managing limits.~~*”
75. **Officer Report Comment and Recommendation:** The Officer Report identifies the relief sought by FANZ on Page 90. The Officer Report recommends Objective 3.22 be renumbered Objective 3.15 and amended to read “*... are met through setting, and managing within, limits.*”
76. **Comment:** I acknowledge Objective 3.22 is recommended to be Objective 3.15. I note the relief sought by FANZ has not be recommended, and no reason is given. In my view, the Objective should recognise that there are appropriate regulatory and non-regulatory methods available to Council to achieve the community outcomes agreed to. In particular I note Policy A2 of the NPS for Freshwater Management anticipates regulatory and non-regulatory methods to be used to meet freshwater objectives. As there is no

Officer Report comment on this matter, it is difficult to determine what concerns the Council may have. I accept that it is conceivable that the setting of limits does not have to be in a regulatory context, but without such recognition, this assumption cannot be made and including recognition of this point in the Objective is consistent with the NPS.

77. **Recommendation:** I recommend the Commissioners amend Objective 3.22 (renumbered Objective 3.15) as follows:

*“Community outcomes for water quality and quantity are met through a series of regulatory and non-regulatory methods, including the setting of, and managing within, limits.”*

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

78. *“Lakes, rivers, wetlands and aquifers will meet the fresh water outcomes set in Sections 6-15. If outcomes have not been established for a catchment, then each type of lake, river or aquifer will meet the outcomes set out in Table 1.”*
79. **Submission:** It is noted this is more an ‘aspirational objective’ than a policy, and should be presented as an Objective.
80. Nevertheless, this Policy is recognised as a cornerstone piece for the proposed Plan, and requires the outcomes set out in Table 1 to be met, if not established in Sections 6-15. If presented as a policy rather than an objective, FANZ is concerned about the way the policy is currently written, as the use of the term ‘will’ is all inclusive and leave no room for working towards the outcomes sought, and in essence is unachievable and unrealistic.
81. FANZ is also concerned with the manner that the Table 1 standards are to be applied. It understands that Table 1a is largely the same as Table WQL5 of the Canterbury NRRP and that Table 1b is largely the same as Table WQL6 of the Canterbury NRRP. The NRRP recognised that the objectives sought water quality conditions (in Table WQL5) that were not met in some rivers, but that water quality would be progressively improved to meet those conditions and that this may take a period of some years.
82. There are no timeframes associated with this policy (and no timeframes included in Table 1). As noted above, FANZ has concerns regarding whether the outcomes for rivers, lakes and aquifers included Sections 6-15 and/or



Table 1 are appropriate and achievable, and this is addressed elsewhere in this submission. If retained as a policy, amendments are required to make it workable as suggested below.

83. FANZ sought for Policy 4.1 to be deleted as a policy and included as a new ‘Objective’.
84. Should Policy 4.1 be retained as a policy, FANZ sought it be amended as follows, (or similar):
- “Lakes, rivers, wetlands and aquifers should, where appropriate ~~will~~ meet the fresh water outcomes set in Sections 6-15 within community agreed timeframes. If outcomes have not been established for a catchment, then each type of lake, river or aquifer ~~will~~ should, where appropriate meet the outcomes set out in Table 1 within timeframes set by the NPSFM.”*
85. **Officer Report Comment and Recommendation:** The Officer Report recognised FANZ request for Policy 4.1 to be an Objective on Page 100 but stated: *“Policy 4.1 and the references to Table 1 were deliberately included, in the pLWRP, at a “policy” level, rather than elevating them to an objective. This is because the pLWRP is set up to have a single set of objectives, with sub-regional sections able to set policies specific to the sub-regions to achieve the objectives. Elevating this policy to an objective would “lock-in” Table 1, which is not the intention in drafting the pLWRP. On this basis, these submissions are recommended to be rejected.”*
86. The Officer Report accepts the request for timeframes is reasonable, and states: *“.... submissions seeking timeframes for this policy are reasonable, and a date, selected from within the submissions, will also enable the development in the interim period of sub-regional sections which may modify the outcomes sought locally”.*
87. There is no reference to term ‘will’ or how Table 1 standards are to be applied. The Officer Report recommends the following amendments to Policy 4.1: *“4.1 Lakes, rivers, wetlands and aquifers will meet the fresh water outcomes set in Sections 6-15 within the specified timeframes. If outcomes have not been established for a catchment, then each type of lake, river or aquifer will meet the outcomes set out in Table 1 by 2023.”*
88. **Comment:** While overall I understand and accept the reasons provided in the Officer Report regarding why this policy with aspirational intent should not be

an objective, I am still concerned that this overarching policy relating to water quality still delegates to the sub-regional process how the water quality outcomes will be met. In other words, the implications of meeting the water quality outcomes in a particular sub-region is yet to be determined and any concerns are yet to be established. This uncertainty is a concern, and is directly associated with Council's intention to address the implementation of policies through the sub-region plan change process. I also have concerns regarding whether or not that the targets set out in Table 1 will be achievable and appropriate in all situations. I refer to the Expert Evidence of Ms Shirley Hayward where she explains, for example, that some natural sources of phosphorus in hill fed rivers, combined with a warm dry microclimate, can result in periphyton growth naturally and routinely exceeding criteria in Table 1a for hill fed rivers [para. 3.4]. Ms Hayward's expert evidence also indicates it is unrealistic to expect the criteria must be met at all locations all the time [para. 3.17]. Furthermore, her expert evidence suggests a single number criteria (such as those in the Water Quality tables) imply critical threshold of compliance and a level of precision that do not occur in reality, as they are variable spatially and temporally due to both natural and anthropogenic factors [para 3.13]. Ms Hayward contends that the numeric criteria set for each indicator were set with the aim of achieving '*aspirational but achievable objectives*' [para. 3.14]. Her expert evidence furthermore acknowledges that in respect of these and other indicators, in reality it may take long timeframes (years to decades) for some waterways to achieve the criteria set [para. 3.15].

89. Notwithstanding this concern, I do support the inclusion of timeframes and I consider the use of the term '*will*' is not so much a problem, as originally expressed in the FANZ submission.
90. **Recommendation:** I recommend the Commissioners adopt the inclusion of specified timeframe as recommended in the Officer Report. In addition, I recommend consideration be given to expert evidence on matters pertaining to the submission points above and the water quality outcomes provided in Tables 1 a, b, c.

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

91. *“The management of lakes, rivers, wetlands and aquifers will take account of the cumulative effects of land uses, discharges and abstractions in order to meet the fresh water outcomes in accordance with Policy 4.1.”*
92. **Submission:** Giving effect to [new Objective] Policy 4.1, timeframes should be included in this policy. Similar to above, the use of the term ‘will’ is all-inclusive, and in some cases might not be achievable. FANZ considered this is particularly so if the fresh water outcomes in Sections 6-15 have not been identified for a particular sub-region.
93. FANZ sought for Policy 4.2 to be amended as follows (or similar):  
*“The management of lakes, rivers, wetlands and aquifers ~~will~~ should, where appropriate, take account of the cumulative effects of land uses, discharges and abstractions in order to meet the fresh water outcomes in accordance with Policy 4.1 within community agreed timeframes”*
94. **Officer Report Comment and Recommendation:** The Officer Report identifies FANZ’s relief sought on Page 102. The Officer Report recommends Policy 4.2 retained without amendment and states: *“The majority of the issues raised in the submissions ... have been addressed in the discussion on the objectives or Policy 4.1 above, particularly with respect to the role of Table 1, timeframes and general “weakening” of the policy. It is also noted that this policy strongly follows the Freshwater NPS and RPS 2013 frameworks with respect to management in accordance with freshwater outcomes. On this basis, it is recommended to keep this policy without amendment.”*
95. **Comment:** As discussed above, the introduction of timeframes into Policy 4.1 means the use of the term ‘will’ is less of an issue to FANZ.
96. **Recommendation:** I recommend the Commissioners adopt the Officer Report recommendations regarding Policy 4.1 and 4.2.

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

97. *“The discharge of contaminants to water or the damming, diversion or abstraction of any water or disturbance to the bed of a fresh water body shall not diminish any values of cultural significance to Ngāi Tahu.”*

98. **Submission:** FANZ considers the phrase “...shall not diminish any values...” is all-inclusive and uncertain, particularly as the cultural values may not be known or recognised.
99. FANZ sought for Policy 4.3 to be amended as follows (or similar):  
*“The discharge of contaminants to water or the damming, diversion or abstraction of any water or disturbance to the bed of a fresh water body ~~shall~~ should not diminish ~~any~~ recognised values of cultural significance to Ngāi Tahu.”*
100. **Officer Report Comment and Recommendation:** The Officer Report identifies what FANZ sought on Page 103. The Officer Report states: *“The majority of the submissions above seek modification of the wording to reduce the “absolute” nature of the policy. However, given the more significant request for deletion and replacement of the policy by Ngā Rūnanga, modification is not the best option. On this basis, a slightly simplified version of the Ngā Rūnanga request is recommended for adoption. “4.3 The cultural values of each catchment shall be identified and provided for in the subregional sections of the plan. ~~The discharge of contaminants to water or the damming, diversion or abstraction of any water or disturbance to the bed of a fresh water body shall not diminish any values of cultural significance to Ngāi Tahu.~~”*
101. **Comment:** I acknowledge that the recommended changes to Policy 4.3 address, in an indirect way, the concerns raised by FANZ, and from that perspective I support the recommendation. Notwithstanding this support, I do consider that the scope of Policy 4.3 is significantly changed by the proposed Officer Report recommendation, as it previously only addressed particular identified issues, and is now all encompassing, and similar to above, it puts any implementation or understanding of the implications on any resource user to the sub-regional plan change process. There also seems to be a disconnect between the zone committee process that is already happening, and the sub-region process that is yet to happen. As identified above, all this introduces a level of uncertainty and difficulty in assessing the policy at this stage. This is an underlying concern I have with the approach taken in the Officer Report recommendations.

102. **Recommendation:** I recommend the Commissioners adopt the relief sought by FANZ and amend Policy 4.3 to read “*the discharge of contaminants ... ~~shall~~should not diminish ~~any~~recognised values of cultural significance to Ngai Tahu*”.

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

103. “*For other discharges of contaminants to surface waterbodies or groundwater, the effects of any discharge are minimised by the use of measures that:*
- (a) first, avoids the production of the contaminant;*
  - (b) secondly, reuses, recovers or recycles the contaminant;*
  - (c) thirdly, reduce the volume or amount of the discharge; or*
  - (d) finally, wherever practical utilise land-based treatment, a wetland constructed to treat contaminants or a designed treatment system prior to discharge; and*
  - (e) meets the receiving water standards in Schedule 5.”*
104. **Submission:** FANZ opposed the current wording of this policy and sought clarity on the way it is intended to be applied.
105. With regard to bullet point (e), the submitter considers it is not clear what the relationship is between the receiving water standards included in Schedule 5, and the outcomes for lakes, rivers and aquifers included in Table 1. Schedule 5 has provision for water “*not classed as natural*”. Presumably water ‘*not classed as natural*’ must comply with Schedule 5, in addition to Tables 1a, b, and c.
106. In addition, there is no clear Objective to which this policy is linked.
107. There is also no definition for ‘*water not classed as natural*’, however there are definitions for ‘*natural lakes*’, ‘*natural state waterbodies*’ and ‘*natural wetlands*’. Natural State water bodies mean rivers, lakes and natural wetlands within land administered for conservation purposes by the Department of Conservation.
108. With regard to bullet point (e) it is not clear what could be meant by; “*use of measures that;... meet the receiving water standards in Schedule 5*”.

109. Presumably this policy requires measures that result in the receiving water meeting the standards in Schedule 5 [after reasonable mixing] however it could also be interpreted as the discharges meeting receiving water standards in Schedule 5. It is also not clear which of the levels of protection for Toxicants in Schedule 5 apply: 90 %, 95% or 99%.
110. It would also seem from Policy 4.10 wording that Schedule 5 is to apply to groundwater, when the text of Schedule 5 does not appear to include groundwater.
111. FANZ are opposed to the current wording of this policy and sought clarity on the definition of ‘*water not classed as natural*’ and clarity on the Bullet Point 4.10 (e), how Schedule 5 is to be applied in relation to this policy and whether Schedule 5 applies to groundwater.
112. **Officer Report Comment and Recommendation:** The Officer Report states: *“The Fertiliser Assn seeks clarification of the definition of “water not classed as natural” in Schedule 5 and whether this applies to groundwater. It is understood that this classification (and in fact all of Schedule 5) does not apply to groundwater therefore it is recommended that clause (e) commences “in the case of surface water”.*
113. **Comment:** I acknowledge the Officer Report clarifies that Policy 4.10 does not apply to groundwater, and a change is recommended to clarify it only applies to surface water. I support this recommended amendment. I note the other matters raised by FANZ relating to how (e) will work and various terms that require defining are not addressed in the Officer Report. As it has been clarified the policy only relates to surface water, these matters are of less concern to FANZ, and I will not pursue these points any further.
114. **Recommendation:** I recommend the Commissioners adopt Officer Report recommendation to amend (e) by adding the phrase *“in the case of surface water”* at the beginning.

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

115. *“Any discharge of a contaminant into or onto land where it may enter groundwater shall:*

*(a) not exceed the natural capacity of the soil to treat or remove the contaminant; and*

*(b) not exceed available water storage capacity of the soil; and*

*(c) where this is not practicable:*

*(i) meet any nutrient allowance in Sections 6-15 of this Plan;*

*(ii) utilise the best practicable option to ensure the size of any contaminant plume is as small as is reasonably practicable, and there is sufficient distance between the point of discharge, any other discharge and drinking water supplies to allow for the natural decay or attenuation of pathogenic micro-organisms in the contaminant plume;*

*(iii) not result in the accumulation of pathogens, or a persistent or toxic contaminant that would render the land unsuitable for agriculture, commercial, domestic or recreational use or water unsuitable as a source of potable water or for agriculture;*

*(iv) not raise groundwater levels so that land drainage is impeded; and*

*(v) not have any adverse effects on the drinking water quality of the groundwater, including any risk to public health.”*

116. **Submission:** FANZ are opposed in part to Policy 4.11. Firstly, it is noted that Policy 4.11 addresses any discharge of a contaminant into or onto land where it may enter groundwater, and that clause (c)(i) of the policy states:

*“where this is not practicable:*

*(i) meet any nutrient allowance in Sections 6-15 of this Plan.”.*

117. Secondly, currently there are no nutrient allowances set within Sections 6-15 of the proposed Plan and each chapter refers the reader to Rules 5.30 to 5.51. As such, the Policy as currently worded is unclear and ambiguous. FANZ considers that this part of the policy should be deleted and further advanced when nutrient limits allowances are advanced via plan changes to the proposed Plan.

118. Furthermore, clause (c)(v) requires that any discharge of contaminants “*not have any adverse effects on the drinking water quality of the groundwater, including any risk to public health.*”

119. FANZ do not agree that all adverse effects can be addressed when discharging contaminants to land or where it may enter water. In this regard, it is well-established case law that the Act is not a ‘*nil effects*’ statute.

120. FANZ sought the following amendments to Policy 4.11 (or similar):
- “Any discharge of a contaminant into or onto land where it may enter groundwater shall:*
- (a) not exceed the natural capacity of the soil to treat or remove the contaminant; and*
  - (b) not exceed available water storage capacity of the soil; and*
  - (c) where this is not practicable:*
    - (i) ~~meet any nutrient allowance in Sections 6-15 of this Plan;~~*
    - (ii) utilise the best practicable option to ensure the size of any contaminant plume is as small as is reasonably practicable, and there is sufficient distance between the point of discharge, any other discharge and drinking water supplies to allow for the natural decay or attenuation of pathogenic micro-organisms in the contaminant plume;*
    - (iii) not result in the accumulation of pathogens, or a persistent or toxic contaminant that would render the land unsuitable for agriculture, commercial, domestic or recreational use or water unsuitable as a source of potable water or for agriculture;*
    - (iv) not raise groundwater levels so that land drainage is impeded; and*
    - (v) not result in unacceptable ~~have any~~ adverse effects on the drinking water quality of the groundwater, including any risk to public health.”*
121. **Officer Report Comment and Recommendation:** The Officer Report does not acknowledge FANZ’s concerns about reference to Section 6-15 and rejects any amendment to (v) regarding adverse effects on drinking water quality (Page 145).
122. **Comment:** As already discussed above, I do not accept the approach adopted in the proposed Plan that references plan provisions that do not exist. I consider this causes unacceptable uncertainty and makes it difficult to assess the current policy on its merits. I do not consider this is sound planning practice. In relation to the (c) (v), I do not consider the requirement not to have any adverse effects on the drinking water quality of groundwater is realistic or attainable. In my view, if the standards set are met, then the management of discharges to water bodies has been achieved and any adverse effect that may occur are considered to be at acceptable levels. I note expert evidence of Ms Hayward agrees with concerns expressed in the Fonterra submission (which expresses similar concerns to FANZ) that this provision could be interpreted that any increase in a groundwater constituent could be



considered an adverse effect whether or not the constituent exceeded relevant criteria in the drinking water standard. Ms Hayward suggests in her expert evidence that the requirement is unnecessarily conservative given the safety factors incorporated into the drinking water standards criteria. In her view, a requirement that effects of discharges do not result in groundwater exceeding criteria for drinking water standards is adequately protective. [para 4.1]. I concur with these views.

123. **Recommendation:** I recommend the Commissioners adopt the relief sought by FANZ and amend Policy 4.11 accordingly.

## Discharges

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

124. *“The discharge of stormwater into a river, lake, wetland or artificial watercourse or onto or into land in circumstances where a contaminant may enter water is a permitted activity provided the following conditions are met:*
- 1. The discharge is into a community or network utility operator stormwater system; or*
  - 2. The discharge is not from or onto potentially contaminated land;*
  - 3. The discharge is not into:*
    - (a) a water race, as defined in Section 5 of the Local Government Act 2002;*
    - (b) a wetland, unless the wetland is part of a lawfully established stormwater or wastewater treatment system; or*
    - (c) a water body that is Natural State, unless the discharge was lawfully established before 1 November 2013;*
  - 4. The discharge does not result in an increase in the flow in the receiving water body at the point of discharge of more than 1% of a flood event with an AEP of 20% (one in five year event);*
  - 5. For a discharge of stormwater onto or into land:*
    - (a) the discharge does not cause stormwater from up to and including a 24 hour duration 2% AEP rainfall event to enter any other property;*
    - (b) the discharge does not result in the ponding of stormwater on the ground for more than 48 hours;*

*(c) the discharge is located at least 1 m above the highest groundwater level that can be reasonably inferred for the site at the time the discharge system is constructed;*

*(d) there is no overland flow resulting from the discharge to a surface water body unless via a treatment system or constructed wetland; and*

*(e) for a discharge from a roof, the discharge system is sealed to prevent the entry of any other contaminants; and*

*6. For a discharge of stormwater to surface water:*

*(a) The discharge meets the water quality standards in Schedule 5 after reasonable mixing with the receiving waters, in accordance with Schedule 5;*

*(b) the concentration of total suspended solids in the discharge shall not exceed:*

*(i) 50 g/m<sup>3</sup>, where the discharge is to any spring-fed river, Banks Peninsula river, or to a lake; or*

*(ii) 100 g/m<sup>3</sup> where the discharge is to any other river or to an artificial watercourse; and*

*(c) the discharge to water is not within a group or community drinking water supply protection area as set out in Schedule 1.”*

125. **Submission:** FANZ opposed (in part) Rule 5.72.

126. The submitter noted that Rule 5.72(5)(c) requires that;

*“(c) the discharge is located at least 1 m above the highest groundwater level that can be reasonably inferred for the site at the time the discharge system is constructed;”*

127. It is unclear how Rule 5.72 would apply to FANZ member company’s (Ballance and Ravensdown) existing infrastructure, most of which has been developed and embedded in the environment for many years. The rule is ambiguous as to the specific effect that clause (5)(c) is seeking to address.

128. Put another way, the rule does not acknowledge existing infrastructure, or seek to exclude it from the rule. This leads to a natural expectation that Rule 5.72 applies to existing infrastructure. This outcome has the potential to place an unnecessary and unjustified consenting burden on existing discharge points.

129. 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.

130. **Officer Report Comment and Recommendation:** The Officer Report states: *“Some submitters have requested that Rule 5.72 not apply to lawfully established activities. Almost all conditions in Rule 5.72 are addressed in some manner within the current NRRP Rules WQL6 Discharge of Stormwater to Land and WQL7 Discharge of stormwater into a river, lake or artificial watercourse. As such it is considered likely that individual discharges of stormwater currently permitted under the NRRP would remain so under the pLWRP. Resource consents granted in terms of the NRRP rules would have considered the same or similar matters as those contained in the pLWRP and therefore is still likely to be valid under section 15 of the RMA. For these reasons it is not considered necessary to provide for lawfully established discharges other than those already provided for in the Rule. It is also noted that development of such a provision would be difficult given the language and format of the Rule.”* The Officer Report recommends Condition 5 (c) be retained in amended rule.
131. **Comment:** While I appreciate the clarification and generally agree with the interpretation given, I am of the view that the proposed Plan should provide guidance to the resource user and the Council staff to make sure there is no uncertainty in interpretation, and therefore I consider it should stand independently without reference to earlier planning documents. In my view, it should be clear that Rule 5.72 does not apply to lawfully established infrastructure and any associated (and existing) stormwater discharges.
132. **Recommendation:** I recommend the Commissioners adopt the relief sought by FANZ and amend Rule 5.72 accordingly.

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

133. *“The discharge of stormwater into a river, lake, wetland or artificial watercourse or onto or into land in circumstances where a contaminant may enter water that does not meet the conditions of Rule 5.72 is a non-complying activity.”*
134. **Submission:** FANZ considers it is not clear why non-compliance with the conditions in Rule 5.72 is a non-complying activity. It is considered a discretionary activity is more appropriate, as Council can still decline consent and consider any matters it wishes as it has not limited its discretion.

135. FANZ opposed the non-complying activity status of Rule 5.72 and sought discretionary activity status.
136. **Officer Report Comment and Recommendation:** The Officer Report accepts request and amends rule to be discretionary.
137. **Comment:** I consider the Officer Report recommendation to amend the activity status of Rule 5.73 is appropriate, and support the recommended amendment.
138. **Recommendation:** I recommend the Commissioners adopt the Officer Report recommendation and amend Rule 5.73 accordingly.

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

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

139. **Submission:** While FANZ opposes the conditions applied in these rules as they apply to Fertiliser products, they support the storage and use of fertiliser products as a permitted activity.
140. Although the rule may at first appear to have little impact on fertiliser use and storage, this may not be the case with a literal interpretation of the rule, thereby requiring unreasonable conditions for storage and use of bagged fertiliser product (The 2000 litre requirement can apply to volume of a solid as well as a liquid).
141. Most fertilisers have HSNO classifications of ; 6.1D ; 6.3B ; 6.4A ; 9.3C and some may also have HSNO classifications of ; 6.1E ; 6.3A ; 9.1D ; 9.3B. These are subgroups within the Class 6 – Health Hazards (6.3B = irritating to the skin, 6.4A = irritating to the eye,) and Class 9-Environmental Hazards (9.3C = toxic to terrestrial vertebrates, 9.1D = slightly harmful to the aquatic environment)
142. FANZ consider the rule as it currently stands will encompass all these subclasses and therefore capture products like fertiliser. Fertiliser Companies produce bagged fertiliser, therefore farmers storing and using bagged fertiliser will have to comply with the conditions for permitted activity, or default to restricted discretionary consent.
143. Pursuant to section 96B of the Hazardous Substances and New Organisms Act 1996 (HSNO), the HSNO group standards for fertilisers were developed as a

nationally consistent regulation for managing storage, handling, transport and use of fertiliser products with HSNO classifications, to protect the environment and human health. HSNO regulation was developed with the end user in mind.

144. There are four group standards for fertilisers;
- |                    |           |
|--------------------|-----------|
| Corrosive          | HSR002569 |
| Oxidising [5.1.1]  | HSR002570 |
| Subsidiary Hazards | HSR002571 |
| Toxic [6.1C]       | HSR002572 |
145. There is no clear reason why more a stringent requirement should apply for fertiliser products.
146. The section 32 report (page 50) states “[t]he pL&WRP seeks to reduce the regional council requirements through placing greater reliance on the HSNO approval process. The pL&WRP rule provisions seek to identify particular locations and circumstances where hazardous substance storage needs to be considered more thoroughly, particularly with respect to environmental and water quality risk, but leaves the remainder, including large storage, to the HSNO and territorial authority approval processes. Overall, this is likely to result in considerably fewer resource.”
147. FANZ consider fertiliser products should be exempt from this rule subject to compliance with HSNO regulation.
148. FANZ oppose this rule in its current form and sought for fertiliser to be exempt from Rules 5-162 and Rule 5-163, subject to complying with requirements under the Hazardous Substances and New Organisms Act 1996.
149. **Officer Report Comment and Recommendation:** The Officer Report states: “Two fertiliser companies request that fertiliser be exempt from this Rule if they meet HSNO requirements. Their submission refers to the storing of fertiliser in bags within paddocks possibly being caught by this rule presumably on the basis that a bag is a portable container. It is unlikely that this is the intention of the Rule. Rather the reference to portable containers is assumed to apply only to containers of petrol, kerosene or diesel for refuelling (as is the case in the NRRP). On this basis fertiliser in bags would not fall under this Rule, but would fall under Rule 5.164 which covers use of land for storage. Amendment of Rule 5.162 is not necessary. However to avoid any

*misinterpretation a definition of portable container is recommended to be included.” The Officer Report recommends the following definition: “**Portable container** means one or more containers of petrol, kerosene or diesel used for refuelling and the container(s) is fixed to a vehicle, towed by a vehicle or transported by helicopter, but does not comprise part of the inbuilt fuel system required to power a vehicle or machine.”*

150. **Comment:** Overall I support the Officer Report recommendation to include a definition of ‘*Portable Container*’. However, while the Officer Report recommendation might address concerns with the fertiliser products, in my view it seems an awkward provision if it applies to the broad headings of hazardous substance, only to be narrowed to fuel products by definition of a portable container. I would have thought it would be better to revise the provision to be consistent with the HSNO regulations.
151. **Recommendation:** I recommend the Commissioners adopt the relief sought by FANZ to review the provision to be consistent with the HSNO regulations.

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

152. **Submission:** While FANZ supports the intent of the rule which is to permit the use of land for the storage of hazardous substances as a permitted activity, subject to conditions, it sought an amendment to Rule 164.
153. As discussed for Rule 5-162 and 5-163, there is no clear reason why more stringent regulation should apply than is provided for by the HSNO Group Standards for Fertiliser. The submitters note in Condition Rule 5-164, 4(b) a requirement for stock reconciliation to be undertaken with 24 hours and thereafter on a fortnightly basis. If stock reconciliation shows a discrepancy for the measurement period of more than 100 L or 0.5%, whichever is smaller, the CRC shall be notified with 2 working days. This requirement in particular is impractical within the context of bulk, or bagged fertiliser storage and use.
154. FANZ supports the intent and permitted activity status of Rule 5.164, while seeking for fertiliser to be exempt from Conditions 2 – 6, subject to complying with requirements under the Hazardous Substances and New Organisms Act 1996.

155. **Officer Report Comment and Recommendation:** The Officer Report states: *“The Fertiliser Association of New Zealand ... seek exemption from conditions 2 to 6 subject to complying with the requirements under Hazardous Substances and New Organisms Act. While some of these conditions are relevant only to liquids, the least relevant conditions have been recommended to be removed. Overall it is not considered appropriate to exempt fertilizer from these conditions.”* The Officer Report recommends changes to Condition 4 relating to stock reconciliation – the time frames regarding notifying CRC remain the same.
156. **Comment:** I note Rule 5.164 is now subject to the new definition of ‘*Portable Container*’ provided by the Officer Report in relation to Rules 5.162 and 163 above. It is difficult to provide comment on the Officer Report recommendation as it does not provide good reason for why fertiliser is not exempt, as requested in the FANZ submission. I can only reiterate the Industry view that considers an exception is appropriate and the provisions of the rule unnecessary. The HSNO regulations for fertilisers were specifically developed for the protection of human health and the environment with practical use and application of the product in mind. The Officer Report does not provide good reason why more stringent requirements than the HSNO regulation should apply to fertiliser products with hazardous substance classifications. FANZ also raised concerns regarding the practicality of timeframes included in the rule, and these matters are still an issue that needs to be addressed.
157. **Recommendation:** I recommend the Commissioners adopt the relief sought by FANZ and amend Rule 5.164 accordingly.

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

158. Schedule 3: A. *Chemical manufacture, application and bulk storage includes:*  
*“6. Fertiliser manufacture or bulk storage”*
159. **Submission:** FANZ noted that Schedule 3 identifies fertiliser manufacture or bulk storage as a hazardous industry. It is questionable whether bulk storage should be included in this schedule, as it is not an ‘*industry*’ (which is not defined in the proposed Plan) and does not include industrial processes. It is

also subject to stringent health and safety and environmental controls under HSNO. FANZ considers that the reference to bulk storage is unnecessary and should be deleted.

160. FANZ sought deletion of the reference to bulk storage from Number 6 of Schedule 3.
161. **Officer Report Comment and Recommendation:** The Officer Report identifies the relief sought by the submitter on Page 206. The Officer Report states: *“Bulk storage is included in a number of the activity descriptions simply because large amounts of substances have a greater potential to have environmental impacts than smaller amounts. There is also a request by Ngā Rūnanga to provide a definition of “bulk storage”. It is not appropriate to change the HAIL list as it is relied on as directly representing the MFE HAIL document. With regard to a definition of bulk storage, this is often storage which effectively is an activity in its own right as compared to ancillary storage associated with the use of a substance. The level of storage associated with manufacture will in most cases constitute bulk storage. No definition of bulk storage is proposed or recommended, however the submitters may wish to provide the Commissioners with a definition for their consideration.”*
162. **Comment:** It is noted the PCLWRP refers in the Definitions to the 2007 version, when the 2011 version is used in Schedule 3. Notwithstanding this discrepancy, I do not intend to pursue this matter any further, other than to note the original concerns addressed by FANZ in its submission.
163. **Recommendation:** I recommend the Commissioners note the concerns raised by FANZ in its submission and ensure the Definition of Hazardous Activity or Industry uses the 2011 definition.

## Miscellaneous

### Plan Provision: Definition - Property

164. **Submission:** Include a broad definition of ‘property’ as part of definition of ‘changed’.
165. **Officer Report Comment and Recommendation:** Officer Report agrees a definition of property is needed and states (Page 220): *“It is agreed with the submitters that “property” tends to be used when referring to a land holding*



*that may be comprised in more than one site (or certificate of title). Given its wide spread use it is considered appropriate to include a definition of property. The Officer Report recommends a new definition of Property as follows: “means any contiguous area of land held in one, or more than one ownership, that is utilised as a single operating unit, and may include one or more certificates of title.”*

166. **Comment:** While I support the inclusion of a separate definition of the term ‘property’, I question the wisdom of addressing this matter at Hearing Group 1. I consider this term is very important when considering the definition of ‘changed’ in relation to land use which will be considered as part of the farming provisions in the Hearings Group 2.
167. **Recommendation:** I recommend the Commissioners delay consideration of the inclusion of a separate definition of the term ‘property’ until consideration of the term ‘changed’ in relation to land use which will be considered as Hearing Group 2.

Chris Hansen

4 February 2013