

**IN THE MATTER OF** the Resource Management  
Act 1991

**AND**

**IN THE MATTER OF** Proposed Canterbury Land  
and Water Regional Plan,  
Canterbury Regional Council

**ADDENDUM TO EVIDENCE OF MELISSA LEANNE DOUCHÉ ON BEHALF OF THE  
POULTRY INDUSTRY ASSOCIATION OF NEW ZEALAND (INC) AND THE EGG  
PRODUCERS FEDERATION OF NEW ZEALAND (INC)**

**1.0 INTRODUCTION**

1.1 My name is Melissa Leanne Douché. My qualifications, experience and role in making a submission on the proposed Canterbury Land and Water Regional Plan on behalf of the Poultry Industry Association of New Zealand (Inc) ('PIANZ') and the Egg Producers Federation of New Zealand (Inc) ('EPFNZ') are detailed in my two statements of evidence, which I presented on 24 April 2013.

1.2 The purpose of this addendum to my evidence is to respond to questions raised by the Hearing Panel on 24 April 2013, and to suggest alternative wording to several provisions, as requested by the Hearing Panel.

**2.0 POLICY 4.46**

2.1 I made a comment in my evidence in relation to Policy 4.46, supporting the addition of the words 'with priority given to drinking water and stockwater needs'. The Panel suggested that the addition of these words only related to giving priority to drinking water and stockwater associated with group or community water supplies, as opposed to drinking water and stockwater takes generally.

2.2 I agree with the Panel that this is the correct interpretation of Policy 4.46. However I note that Policy 4.47, in particular sub clause (a) indicates that drinking water and stockwater takes generally have priority when determining consents for water takes in catchments where surface water or ground water is fully allocated or over allocated.

2.3 I consider that the wording of Policy 4.47 adequately conveys that that drinking water and stockwater takes should have priority in fully or over allocated

catchments. As such, no change to the wording of Policies 4.46 or 4.47, or the insertion of additional policies is required.

### **3.0 PROPOSED STOCK WATER RULE**

3.1 In my statement of evidence for the Group 1 Hearing, I proposed a new rule (Rule 5.XX) which would require takes for stockwater under section 14(3)(b) of the RMA to obtain a resource consent in catchments that were either fully or over allocated. This was based on whether the stockwater take was able to comply with the rate of take and seasonal or annual volume limits set in Section 6-15 for the relevant surface water body, or comply with the limits set in Section 6-15 for the relevant Groundwater Allocation Zone.

3.2 As my evidence on the Group 1 topics was prepared prior to the release of the Group 2 hearing report, I was unaware that the reporting planners were going to introduce a new tool to control and monitor environmental effects and risks specific to the farming activity; namely farm environment plans. Although farm environment plans have been introduced primarily to deal with nutrient management on farms, I believe they could also be used to mitigate potential adverse effects associated with takes for stockwater from water bodies that are either fully or over allocated.

3.3 I have prepared a revised Attachment A, which includes a slightly more complex rule hierarchy than I originally proposed. This is to make it clearer that the majority of farmers will still be able to take water in accordance with section 14(3)(b) of the RMA as they do currently. The proposed Rules 5.XX and 5.YY have been drafted to target new proposals for stockwater takes from water bodies that are already under pressure, as identified by the relevant surface and groundwater limits set in Section 6-15. Farmers in areas where the water bodies still have sufficient water available will be able to take new water for stock as a permitted activity, provided they keep a record of the water extracted and provide it to the Canterbury Regional Council. Existing takes under section 14(3)(b) that were established prior to the notification of the pLWP will not be affected by proposed Rules 5.XX and 5.YY.

3.4 Stockwater takes will now be controlled under four categories:

1. Stockwater takes established under section 14(3)(b) prior to the notification of the pLWP can continue without the need for a resource consent;

2. New small stockwater takes will be provided for as a permitted activity under Rules 5.84-5.87 in the same manner as any other small take;
  3. New stockwater takes that are greater than provided for under the small take rules can still be a permitted activity under Rule 5.XX, provided that a record of the take is provided to the Council for their records and there is sufficient water available when assessed against the limits in Section 6-15 of the pLWP; and
  4. New stockwater takes that are greater than provided for under the small take rules, and where the limits for the relevant water body in Section 6-15 have already been reached or exceeded, can be applied for as a restricted discretionary activity under Rule 5.YY. A farm environment plan needs to be prepared to identify what action should be taken during periods of water shortage to mitigate the adverse environmental effects of the water take.
- 3.5 I have reviewed Schedule 7 (as drafted in the Group 2 Hearing officers report) relating to the content of farm environment plans and consider that the wording of Part A is general enough to provide for farm environment plans specifically targeted at environmental risks and effects associated with taking water from a fully or over allocated water body. Similarly, the audit directions in Part C of Schedule 7 are general enough to apply to farm environment plans specifically focused on water takes.
- 3.6 I have recommended the addition of two interpretation notes (as per Attachment A to this addendum). The first is a revision of Interpretation Note 2 under the Small and Community Water Takes heading (also amended in Attachment A to refer to stockwater). Interpretation Note 2 now clarifies that the pLWP recognises the right to take water under section 14(3)(b) and that the purpose of Rules 5.XX and 5.YY is only to identify the point at which a section 14(3)(b) take is considered to be having an adverse environmental effect.
- 3.7 The second interpretation note is part of Rule 5.YY. This has been proposed to clarify that the scope of a farm environment plan can be reduced to just addressing effects associated with water takes if the farming activity does not trigger any nutrient management rules.
- 3.8 Overall, I consider that the revised rules proposed in Attachment A strike the right balance between allowing farmers to continue to take water under section 14(3)(b) in areas where the environment can accommodate those takes, and

controlling takes for stockwater in areas where water resources are under pressure. The rules also give farmers some certainty that their stockwater takes are provided for under section 14(3)(b) by identifying the trigger point where an adverse environmental effect is likely to occur. Finally, the requirement to provide a record of the permitted takes provided for under Rule 5.XX to the Council will allow for a more accurate assessment of stockwater takes within the Canterbury Region.

#### **4.0 DEFINITION OF 'PRIMARY PRODUCTION'**

4.1 In my evidence prepared in response to the Hearing Group 2 report, I supported the introduction of definitions for 'Existing Farming Activity' and 'New Farming Activity' in relation to the nutrient management rules. As both definitions rely on the term 'primary production' which does not currently have a definition in the pLWP, I recommended that the term 'Primary Production' be defined in the pLWP as it plays a critical part in how the nutrient management rules are interpreted.

4.2 The Hearing Panel has requested a draft definition for the term 'Primary Production', potentially based on the existing RMA definition of 'Production Land'. In order to be used in the context of the 'Existing Farming Activity' and 'New Farming Activity' definitions, the definition of 'Primary Production' needs to exclude forestry.

4.3 I propose a definition of 'Primary Production' in Attachment B; essentially based on the definition of 'Production Land' but tailored so it can be used in the context of the 'Existing Farming Activity' and 'New Farming Activity' definitions.

#### **5.0 CONCLUSION**

5.1 This addendum focuses on responding to the questions raised by the Hearing Panel in response to my evidence, presented on behalf of PIANZ and EPFNZ, on 24 April 2013.

5.2 I trust that the attached draft provision and definition assist the Hearing Panel in making a final determination on the issues raised in my evidence.

**Melissa Douché**  
**BPlan, GradNZPI**

**Attachment A – Revised Draft Rule 5.XX and New Draft Rule 5.YY**  
**Attachment B – Proposed Definition of 'Primary Production'**

## Attachment A – Revised Draft Rule 5.XX and New Draft Rule 5.YY

### Heading – ~~Small~~ Community and Stockwater Takes

#### Interpretation –

Note 2: Nothing in this Plan affects an individual's right to take water in accordance with section 14(3)(b) of the RMA. The Plan recognises an individual's right to take water in accordance with section 14(3)(b) of the RMA, provided the taking of such water does not, or is not likely to, have an adverse effect on the environment. Rules 5.XX and 5.YY identify the point at which an allowed section 14(3)(b) take is considered to be having an adverse environmental effect.

**Rules 5.84-5.87** – retain as drafted in the s42A report.

**Rule 5.88** – retain as drafted in the s42A report, except that the second interpretation note should be deleted.

#### **Revised Rule 5.XX – Stockwater Takes (should be inserted after Rule 5.88)**

5.XX - The taking and using of water for stockwater pursuant to section 14(3)(b) of the RMA from either surface water or groundwater at a rate or volume greater than the small takes provided for under Rules 5.84-5.87 is a permitted activity provided the following conditions are complied with:

- (a) The take existed prior to 11 August 2012; or
- (b) A record of the proposed take (including the source of the take, extraction rate and maximum volume of take) is provided to the CRC; and
- (c) When assessed in combination with all other existing resource consented and allowed takes, the take complies with the rate of take and seasonal or annual volume limits set in Section 6-15 for the relevant surface water body, or the take complies with the limits set in Section 6-15 for the relevant Groundwater Allocation Zone.

#### **New Rule 5.YY – Stockwater takes that do not comply with Rule 5.XX (should be inserted after Rule 5.XX)**

5.YY - The taking and using of water for stockwater from groundwater or surface water that does not comply with Rule 5.XX is a restricted discretionary activity provided the following condition is complied with:

- (i) A farm environment plan is prepared and audited in accordance with Schedule 7 Parts A and C and the audit grade is "A-B" or better.

The CRC will restrict the exercise of discretion to the following matters:

1. The content of, compliance with, and auditing of the Farm Environment Plan, including whether stockwater takes can be reduced during periods of water shortage;
2. The reasonable demand for water, taking into account the number and type of stock that are to be supplied with drinking water and the potential growth in demand for water;
3. The effect on other water takes, including the reliability of supply;

4. Any beneficial effects from the use of water;
5. Compliance with any relevant Water Conservation order; and
6. The extent to which the proposed activity is inconsistent with the Strategic Policies of this Plan.

Note 1: If a farming activity is only required to prepare a farm environment plan under Rule 5.YY (i.e. the need for a farm environment plan is not required under any of the Nutrient Rules 5.41-5.43 or 5.45), then the scope of the farm environment plan is restricted to water take and usage on the property.

## **Attachment B – Proposed Definition of ‘Primary Production’**

*‘Primary Production – means any land and auxiliary buildings used for production (but not processing) of primary products, including agricultural, pastoral and horticultural products. It does not include land and auxiliary buildings used or associated with the production of forestry products or the prospecting, exploration or mining for minerals.’*