

**BEFORE THE**

Canterbury Regional Council

**IN THE MATTER OF**

the Environment Canterbury  
(Temporary Commissioners  
and Improved Water  
Management) Act 2010

**AND**

**IN THE MATTER OF**

Submission and Further  
Submission on Proposed  
Variation 1 to the Canterbury  
Land and Water Regional  
Plan (2014)

**STATEMENT OF REBUTTAL EVIDENCE OF MICHAEL ROBERT BENNETT**

Dated 8 SEPTEMBER, 2014

**Introduction**

1. My name is Michael Robert Bennett. I have the experience and qualifications described in my evidence in chief. I again agree to comply with the Code of Conduct of Expert Witnesses.

**Scope of Evidence**

2. In this statement of evidence I rebut evidence given by the following people:
  - 1) Evidence of Chris Hansen
  - 2) Evidence of Cathy Fay Begley
  - 3) Evidence of Sharon Gail Dines
  - 4) Evidence of Vance Hodgson
  - 5) Evidence of Scott Pearson

### **Evidence of Chris Hansen**

3. At paragraph 92, Mr Hansen comments on the industry capacity to prepare the large number of Farm Environment Plans(FEPs) required under Variation 1, which supports my opinion, expressed in Evidence-In-Chief, that FEPs are best applied where the benefit of doing so justifies the time and cost of doing so. While I support the concept of a 'procedural guideline' (discussed at paragraph 94) to assist the implementation of Variation 1, I do not think it should be relied on, and it remains my opinion that there could also be better guidance in Policies and Rules as to which farms will require FEPs, with a specific focus on the use of this tool to address adverse effects where they are most likely to arise.

### **Evidence of Cathy Fay Begley**

4. At paragraph 21 Ms Begley expresses an opinion on the concept of 'continuous improvement' as reflected in Variation 1. While I agree with this view to some extent, in that Variation 1 does not tell us what happens on farms with nitrogen emissions at or below 80 kg/ha/yr beyond 2022, I do not agree with the proposition that the Variation 'could not be realistically seen as a first step.' Continuous improvement will require continuous development of new information, information which will then be translated into changes to farm and other land use practices, whether or not specifically required by regulation. The pLWRP and Variation 1 might be considered a first step on this pathway, and the MGM project and what that will tell us, another.
5. At paragraph 71, there is some discussion of the minimum nitrogen discharge allocation of 15 kg/ha/yr allocated to all properties, including the comment that '*...(the threshold) is based upon an equal allocation model where if all rural land uses were discharging no more than the threshold then the catchment load would be achieved*'. While this is a correct statement, it also needs to be acknowledged that the catchment load required by 2022, allows for an average or equal allocation which is somewhat higher than 15 kg/ha/yr<sup>1</sup>.
6. Contrary to the view expressed at paragraph 79, I do not consider that newer dairy conversions (potentially already at good practice) will 'struggle' to meet required percentage reductions more than any other farmer. My reason for this is that from 2017 such conversions will be subject to the appropriate quantum of N loss (and further

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<sup>1</sup> Refer to Evidence of Shirley Hayward, 29<sup>th</sup> August 2014.

reduction), which will apply equally to all 'like' property types, according to per hectare allocations to be established following completion of the MGM project.

### **Evidence of Sharon Gail Dines**

7. At paragraph 23 Ms Dines recommends using the test of 'good management practice' rather than 'best practicable option' for discharges of contaminants from industrial or trade premises, in circumstances where the activity is not replacing a farming activity or the discharge of nitrogen will exceed 15 kg/ha/yr<sup>2</sup>. I note that Policy 11.4.10 requires the Best Practicable Option *to manage the treatment and discharge of contaminants and meet the nitrogen load limit for industrial and trade processes*. In my opinion this is an appropriate requirement in a catchment which is over-allocated for nitrogen discharges from land use activities, and where a new management framework is proposed to 'cap and reduce' nitrogen loss for all farming land uses with nitrogen loss in excess of 15 kg/ha/yr.

### **Evidence of Vance Hodgson**

8. At paragraphs 12.6 to 12.9 there is some discussion of the trading or transfer of the ability to discharge nutrients. In my opinion the provision for trading or transfer of nutrient discharge rights raises the following issues:
  - 1) In a non-urban context, the ability to discharge nutrients relates directly to the future ability to use land. If discharge rights can be traded away, there is potential to lose future ability to use land for food production, unless a specific policy mechanism is in place to prevent this happening.
  - 2) The ability to transfer nutrient discharges gives established rights to discharge a value that is not tied to the land. This in turn creates an incentive whereby (dependent on the 'price' for nutrient discharge rights) resource users who can achieve improvements through better practice are unlikely to be motivated to do so if they consequently lose those established rights.

### **Evidence of Scott Pearson**

9. The overall framework sought by Mr Pearson in his Evidence in Chief does not in my opinion make sufficient provision for the Central Plains Irrigation Scheme. I agree with the concept of consistency in the application of rules to manage N loss between actives

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<sup>2</sup> Refer to Variation 1 to the proposed Canterbury Land and Water Regional Plan, Policies 11.4.10 and 11.4.11.

with similar effects, but note that CPW has already been consented to, which makes it part of the environment if it is likely to proceed. This project also has various potential benefits, including the ability to address problems with ecological flows in the catchment.

10. Mr Pearson's proposed Policy 11.4.14B which provides for further development in certain circumstances should in my view be refined to allow for 'novel' methods to manage diffuse discharges of nitrogen from land use and which will often not be able to be modelled by Overseer.
11. In my opinion Mr Pearson's proposed Policy 11.4.17A is a sensible inclusion because, to me, it reflects the relief sought by a number of submitters in relation to ongoing work, including future plan changes that are likely to be required to achieve community expectations in the long term.
12. Mr Pearson's proposed Rule 11.5.9A makes land use as a farming activity a discretionary activity from 2022, which in my opinion does not create an efficient and effective outcome compared to other options, particularly when an FEP is required in any case. A less rigorous, restricted discretionary activity status would be appropriate.
13. Mr Pearson's proposed Rule 11.5.9C makes land use that does not comply with certain conditions of other rules subject to prohibited activity status. Due to some apparent drafting/cross referencing errors, the impact of this rule cannot be assessed. This in turn demonstrates the risks in use of 'prohibited activity status', which leaves no recourse or ability to make a case that an activity is appropriate, even if omissions or unexpected consequences have occurred as a result of the planning framework. This observation consolidates my opinion that rules governing general farming activities, which are by their very nature complex to administer, are better to ultimately default to 'non-complying' rather than 'prohibited' activity status.