

**BEFORE THE CANTERBURY REGIONAL COUNCIL**

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

**A N D**

**IN THE MATTER** The proposed Canterbury Air  
Regional Plan

**A N D**

**IN THE MATTER** of submissions and further  
submissions by Gelita NZ  
Limited (submitter 63201 and  
further submitter 103493).

**STATEMENT OF EVIDENCE OF KEVIN MICHAEL BLIGH**

## 1. INTRODUCTION

- 1.1 My name is Kevin Michael Bligh.
- 1.2 I am a Senior Planner at Golder Associates (NZ) Limited (Golder), a ground engineering and environmental consultancy firm. I have been employed in this role since May 2012.
- 1.3 I have extensive experience with operations of an industrial nature, including zoning of industrial land and management of reverse sensitivity effects. This experience has included site identification and selection, submissions on planning documents, community consultation and extensive involvement in resource consent processes. Since joining Golder I have worked on a number of projects within the Canterbury area that involve the discharge of contaminants to air, including the consenting of new and existing manufacturing operations and a range of quarrying activities.
- 1.4 In 2013 I was engaged by Gelita NZ Limited (Gelita), along with Golder's technical air quality experts, to prepare an application to change conditions of Gelita's air discharge permit for its site at Woolston in Christchurch (the Site). This application was subsequently granted by the Canterbury Regional Council (CRC) and a final decision has now been issued following Environment Court mediation. During my involvement in this project, I became familiar with the nature of the site's operations and the challenges it faces from a resource management perspective (particularly after the earthquakes).
- 1.5 I have also presented evidence on behalf of Gelita in respect of the Proposed Christchurch Replacement District Plan (CRDP) which will in the future outline the manner in which Gelita will be able to develop and utilise the Site. The CRDP will also control land use activities that may seek to establish in the surrounding area.
- 1.6 I worked with Gelita to assess the implications of the Proposed Canterbury Air Regional Plan (CARP), and advised that submissions on specific provisions of the CARP were appropriate in order to ensure that it can continue to operate effectively at its Site. Subsequently, I helped prepare the submissions (and further submissions) on the CARP now before the Hearings Panel.
- 1.7 In preparing this evidence, I have read the evidence of **Mr Roger Cudmore**.
- 1.8 I acknowledge that I have read and am familiar with the Environment Court's Code of Conduct for Expert Witnesses, contained in the Environment Court updated Practice Note 2014, and agree to comply with it. My qualifications as an expert are set out above. Other than where I state that I am relying on the advice of another person, I confirm that the issues addressed in this statement of evidence are within my area of

expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

## **2. EXECUTIVE SUMMARY**

2.1 Gelita's submission was generally supportive of the CARP subject to seeking a number of amendments generally focussed on the following matters:

- (a) The need to appropriately recognise and provide for industrial activities in appropriate locations.
- (b) Reverse sensitivity issues and the fact that CARP provisions seek to shift the balance of proof, in contrast to existing regional and district planning provisions, onto existing land users rather those parties who subsequently establish in areas thus leading to reverse sensitivity effects.
- (c) Inappropriate utilisation of the Ambient Air Quality Guidelines 2002 Update (AAQG) to manage specific activities rather than ambient air quality.
- (d) Unnecessary, and at times incomplete replication, of the provisions of the Resource Management (National Environmental Standards for Air Quality) Regulations 2004 (the NES).
- (e) A failure to distinguish between localised and ambient air quality.

2.2 While some of the amendments sought by Gelita have been accepted, alongside retention of provisions supported by Gelita, many of Gelita's submission points have been rejected (including a number of submission points that were intended to ensure the future viability of Gelita's operations). My evidence focusses on these submission points, and the relief sought.

2.3 Having considered the amendments outlined in the Officer's Report, in my opinion the CARP still requires a number of amendments to ensure that it provides an appropriate resource management framework for managing discharges to air arising from industrial activities, managing reverse sensitivity effects, and to appropriately reflect provisions of the higher order planning documents such as the NES, the Land Use Recovery Plan (LURP) and the Canterbury Regional Policy Statement (CRPS). I acknowledge here that in referring to the LURP, this document applies to the greater Christchurch metropolitan area as opposed to the entire Canterbury Region. It is however highly relevant to Gelita and the Woolston area in which Gelita operate.

2.4 My proposed amendments to the CARP are outlined in Sections 4 and 5 of my evidence.

### **3. SCOPE OF EVIDENCE**

3.1 The focus of my evidence is to ensure that the CARP provides for the sustainable management of the region's air resource that enables people and communities, including future generations, to provide for their social, economic and cultural well-being and health and safety. This wellbeing is in part achieved through the enablement of industrial activities which play a key role in economic and social wellbeing within the region. To enable wellbeing to be maximised, the provisions of the CARP need to appropriately provide for these activities subject to the management of adverse effects. This includes ensuring that other activities with the potential to constrain the nature of industrial activities are not able to establish in such a manner so that they have adverse reverse sensitivity effects on those operations.

3.2 My evidence therefore specifically addresses the following matters:

- (a) Section 4 of my evidence discusses the key submission points for Gelita being:
  - a. Recognition of Importance of Industrial Activities.
  - b. Reverse Sensitivity.
  - c. Ambient and Localised Air Quality.
  - d. Application of Best Practicable Option (BPO).
  - e. Ambient Air Quality Guidelines 2002 Update.
  - f. Resource Management (National Environmental Standards for Air Quality) Regulations 2004.
  - g. Offensive or Objectionable Effects.
- (b) Section 5 discusses other matters, namely Policies 6.12, 6.14 and 6.20 and Rule 7.28.

3.3 Except for the matters specifically addressed in Sections 4 and 5 of my evidence, I have not made any comment on submission points where:

- (a) A provision was supported and no significant change has been recommended.

(b) Gelita's requested change has generally been recommended to be accepted in the Officer's Report.

3.4 In addition, I note that some aspects of my evidence is similar in nature with planning evidence of Ms Carmen Taylor being presented on behalf of St George's Hospital Limited) (Submitter No. 63131). Ms Taylor and I worked together in preparing the submissions and further submissions for both Gelita and St Georges. We were generally in agreement (as we still are) as to the issues, as we saw it, associated with the CARP and the nature of amendments required to address those issues.

#### 4. KEY MATTERS

##### Recognition of Importance of Industrial Activities

###### *Introduction*

- 4.1 As part of providing for the wellbeing of people and communities, I consider it important that the CARP provides a planning framework that provides for industrial activities which discharge contaminants to air, subject to the management of the adverse effects of those discharges. It is also important that the CARP recognises the potential for industrial activities to be adversely affected by incompatible land use activities which could result in reverse sensitivity effects on these industrial activities. I discuss this later in my evidence.
- 4.2 In accordance with section 67(3) of the RMA, the CARP must give effect to the CRPS. Policy drivers in the CRPS seek to provide for sustainable economic development by ensuring that business activities, including industrial activities, are located appropriately. This is provided that the quality of the environment is maintained or enhanced, that conflict between incompatible activities is avoided (Objective 5.2.1), and that the adverse effects of development are avoided, remedied or mitigated (Policy 5.3.2).
- 4.3 Specific recovery and rebuild provisions of the CRPS (Chapter 6), as directed by the LURP, seek to ensure that *"areas used for existing industrial activities are to be used primarily for that purpose ..."* (Objective 6.2.6(2)).
- 4.4 Objective 6.2.6 is supported by Policy 6.3.6. Part (6) of this policy identifies that existing business zones provide for a range of business activities that depend on the *"desired amenity"* of the business area (and surrounds). In addition, Part (8) of this policy seeks to ensure that, *"...reverse sensitivity effects and conflicts with incompatible activities are identified and avoided or mitigated against"*. To me this includes ensuring that planning provisions, including those addressed in the CARP, achieves the

identification and avoidance or mitigation of reverse sensitivity effects (i.e., not just determined such effects through the resource consent process).

- 4.5 The objectives and policies of the CRPS which are relevant to industrial activities are attached to my evidence (Attachment A).

#### **Objective 5.7**

- 4.6 Gelita, in its submissions, sought that Objective 5.7 be amended to more appropriately recognise the contribution industry makes to wellbeing, as follows:

*“Nationally and regionally significant infrastructure and industry is enabled recognised and provided for such that they can be and is resilient and positively contributes to economic, cultural and social wellbeing through its efficient and effective operation, on-going maintenance, repair, development and upgrading.”*

- 4.7 While this amendment has not been made, a new policy (Policy 6.11A) has been proposed in the Officer’s Report as follows:

*“Locational constraints of discharging activities, including heavy industry and infrastructure, are recognised so that operational discharges into air are enabled where the best practicable option is applied.”*

- 4.8 While I generally support the recommendation outlined in the Officer’s Report in relation to Policy 6.11A, I still consider it would be appropriate to amend Objective 5.7 as requested by Gelita. In my opinion, it is important to recognise at an objective level the contribution that industrial activities make to the overall wellbeing of the Region and the need for industrial resilience (as recognised in both the LURP<sup>1</sup> and CRPS).

- 4.9 Furthermore, I do not consider the reference to best practicable option (BPO) is warranted given other policies (such as Policy 6.10) already recognise the application of BPO and the addition is unnecessary in the context of the policy.

#### **Policy 6.4**

- 4.10 Gelita supported Policy 6.4 but sought a number of amendments to the policy as follows:

*“As far as practicable and while providing for industrial growth, Reduce overall concentrations of contaminants of PM<sub>2.5</sub> in clean air zones so that by 2030*

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<sup>1</sup> Section 4.3.2 of the Land Use Recovery Plan.

*PM<sub>2.5</sub> concentrations within a clean air zone do not exceed 25 µg/m<sup>3</sup> (24 hour average), ~~while providing for industrial growth.~~*

- 4.11 No changes are proposed to this policy within the Officer's Report.
- 4.12 While I support the retention of the policy, I consider the amendment sought by Gelita is appropriate. There is limited information provided in the CARP, and the Section 32 Report, in relation to: the existing levels of PM<sub>2.5</sub> in the clean air zones; whether or not the policy is achievable in the timeframe proposed; and, the nature of ongoing monitoring to be carried out by CRC to determine PM<sub>2.5</sub> concentrations in the future.
- 4.13 In my opinion it is therefore appropriate that Policy 6.4 refers to reductions in PM<sub>2.5</sub> where they are practicable, given the monitoring and additional information and technology that is likely to become available over the life of the CARP. I also consider it is important that specific recognition is made for ongoing industrial growth, and in turn the contribution this makes to the region.

**Policy 6.19**

- 4.14 Policy 6.19 seeks to provide for the discharge of contaminants from large scale fuel burning devices, industrial and trade activities and significant infrastructure, provided it is compatible with the surrounding land use pattern and the effects of the discharge on air quality are minimised.
- 4.15 Again, Gelita supported the intent of this policy in part, insofar as it provides for the discharges to air from industrial and trade premises.
- 4.16 However, as with other proposed policies which I discuss below (under the heading Reverse Sensitivity), Policy 6.19 reverses the obligations of parties in terms of ensuring that potential adverse effects do not occur such that reverse sensitivity issues arise (i.e., in this case, by referring to the discharge being compatible with the surrounding land use pattern). The focus on discharging activities should be on managing avoiding, remedying or mitigating adverse effects, and in my opinion the surrounding land use pattern plays a part in that assessment, not the other way around.
- 4.17 I therefore support the following amendments to Policy 6.19, as sought by Gelita in its submission:

*“Enable discharges of contaminants associated with large scale fuel burning devices, industrial and trade activities and nationally and regionally significant infrastructure, in locations which are spatially appropriate for the activity where the discharge is compatible with the surrounding land use pattern and while*

*ensuring that adverse effects on air quality are avoided, remedied or mitigated minimised.”*

#### **Reverse Sensitivity – Objective 5.9, Policies 6.7 and 6.8**

- 4.18 Gelita is a long standing industry in the Woolston area having been operational on its Site for over 100 years. Over time, sensitive activities have established in the Woolston area and encroached on Gelita’s operations and its ability to operate. These activities have brought with them higher environmental expectations which have resulted in Gelita having to upgrade its operations and environmental controls to be able to continue its operations on the Site. Gelita’s environmental controls were further impacted by the Canterbury earthquakes and snowstorms in 2012 which subsequently resulted in a number of breaches of its resource consent to discharge contaminants (odour) to air.
- 4.19 Around 2013, Gelita embarked on the process of seeking a change of conditions to its discharge permit. The purpose of this change was to provide Gelita with a ‘grace period’, in which it could undertake upgrading and modifications to its Site, without having to comply with its consent condition which required no offensive odour beyond the property boundary. The purpose of this upgrading was to achieve long term compliance with Gelita’s resource consent obligations. This change of conditions was ultimately granted by Commissioners for a 2 year period, subject to Gelita undertaking a range of additional mitigation measures with set timeframes for implementation.
- 4.20 It is my understanding that this consenting process, and the resulting site modifications required to enable Gelita to continue to operate, have come at a significant financial cost to Gelita. It may, at times, also result in reduced production while some of the modifications are taking place.
- 4.21 Gelita is therefore acutely aware of reverse sensitivity effects, the implications these effects can have on industrial operations, and the need for such effects to be appropriately avoided or mitigated.
- 4.22 Accordingly, Gelita submitted on the CARP provisions relating to reverse sensitivity (including Policies 6.7 and 6.8), specifically opposing the manner in which reverse sensitivity issues are proposed to be managed by the provisions of the CARP.
- 4.23 To assess the appropriateness of the approach proposed to manage reverse sensitivity by the CARP, it is important to consider the requirements of higher level planning documents being the CRPS and to a lesser extent, the LURP.
- 4.24 The CRPS seeks to avoid reverse sensitivity effects on industrial activities, through key policy drivers in Chapters 5 and 6. Specifically with respect to air quality, Policy 14.3.5



of the CRPS sets out the relationship that exists between discharges to air and sensitive land uses and the need to:

“(1) *To avoid encroachment of new development on existing activities discharging to air where the new development is sensitive to those discharges, unless any reverse sensitivity effects of the new development can be avoided or mitigated.*

...

(3) *New activities which require resource consents to discharge contaminants into air are to locate away from sensitive land uses and receiving environments unless adverse effects of the discharge can be avoided or mitigated.”*

4.25 The Section 32 Report<sup>2</sup> recognises this directive of the CRPS to avoid reverse sensitivity effects as follows:

*“Reverse sensitivity effects occur when sensitive activities move into an area where existing activities can cause adverse effects to the sensitive activity. When reverse sensitivity occurs with discharging activities, the effects of these discharging activities can become offensive and objectionable in the new receiving environment, even if the effects were minor when the activity established. The Regional Policy Statement has strong directive policy seeking the avoidance of reverse sensitivity effects and it is anticipated that future incidents of reverse sensitivity will not occur.”*

4.26 Unfortunately, the Section 32 Report, and subsequently the Officer’s Report<sup>3</sup>, confuses the issue of reverse sensitivity by discussing what is considered to be ‘legacy’ situations. The Section 32 Report seems to infer that the CARP is responsible for addressing these issues through policy that indicates that where land use changes have occurred and the receiving environment is no longer appropriate for a discharging activity, discharging activities will need to reduce contaminant discharges to levels commensurate with the new environment, or move. This is reinforced in the Officer’s Report which states that the CARP seeks the ‘resolution’ of such legacy issues<sup>4</sup>.

4.27 This policy approach incorrectly places the onus for managing reverse sensitivity effects on the ‘existing’ discharging activity. Rather it is the onus of those parties who are seeking to establish the new sensitive activity, and those with responsibility for preparing planning documents and assessing resource consent applications, to ensure that reverse sensitivity effects do not occur to the detriment of existing activities (or

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<sup>2</sup> Page 3-10 of Section 32 Report

<sup>3</sup> Page 3-29 of the Officer’s Report

<sup>4</sup> Page 9-6 of the Officer’s Report

appropriately located activities). This includes ensuring that reasonable expansion of existing activities or zonings that provide for discharging activities has been provided for within plans. This rationale outlined in the Section 32 Report is then carried through to the provisions of the CARP, including Policies 6.7 and 6.8 which state:

*“Policy 6.7 – Where, as a result of authorised land use change, land use activities within the neighbourhood of a discharge into air are significantly adversely affected by that discharge, it is anticipated that within a defined time frame the activity giving rise to the discharge will reduce effects or relocate.”*

*“Policy 6.8 – Where activities that discharge into air locate appropriately to avoid the potential for reverse sensitivity effects, then longer consent duration may be available to provide ongoing operational certainty.”*

- 4.28 Having been involved with reverse sensitivity issues in the past, I consider that the approach set out in Policies 6.7 and 6.8 does not reflect sound resource management practice. In effect it reverses where the onus lies in respect of reverse sensitivity and how such effects are to be managed. The policy approach promoted in the notified CARP therefore fails to give effect to the provisions of the CRPS, including the policy direction established by Policy 14.3.5 of the CRPS. Policy 6.7 of the CARP in particular, fails to recognise the often limited opportunities for industrial activities to relocate, or the substantial investment that it is typically made on such industrial sites to avoid, remedy or mitigate adverse effects.
- 4.29 I understand Mr Gary Monk of Gelita will be present at the hearing to further discuss the investment that has been made in Gelita’s Site and how the Site has been affected by reverse sensitivity effects over time. For my part, I am also aware of other instances where reverse sensitivity has been a significant problem for industry even within areas that are appropriately zoned for industrial activities. This has often been as a result of planning decisions which either did not envisage the potential for reverse sensitivity effects, or underestimated the potential for reverse sensitivity effects as a result of the establishment of new land uses.
- 4.30 Relevant to the Gelita situation and its site in Woolston, the LURP states that, *“...earthquake-affected industries (such as Gelita) that do not want to or cannot easily relocate, such as high infrastructure users in Woolston and Bromley, need to be supported to remain and, where necessary, rebuild in existing industrial areas. This will help to maintain existing employment centres and avoid additional pressure on infrastructure capacity at new sites.”*<sup>5</sup>

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<sup>5</sup> Section 4.3.2 of the Land Use Recovery Plan

- 4.31 Further, the LURP introduces Chapter 6 to the CRPS. Objective 6.2.1 (Recovery Framework) of Chapter 6 explicitly provides that recovery and rebuilding should be enabled within Greater Christchurch by optimising the use of existing infrastructure such as that which Gelita relies upon in Woolston.
- 4.32 Significant investment has been made at Gelita's Site in Woolston. In addition, owing to specific infrastructure requirements, there are very few (if any) locations that Gelita could relocate to within Christchurch which would be able to meet its operational needs.
- 4.33 I do not consider that the Section 32 Report or the Officer's Report has adequately considered the implications or practicalities of requiring any business activity to relocate, or the wider economic and social impacts of Policy 6.7.
- 4.34 I acknowledge the comment in the Officer's Report that " ... *the scope of the Air Plan is limited to managing discharges into air and so it cannot ensure protection to discharging activities from sensitive activities. This is why the focus of the pCARP is to locate discharging activities within appropriate receiving environments*"<sup>6</sup>. However, because the CARP itself cannot control non-discharging activities, this should not form the basis a policy approach contrary to that specified in the CRPS.
- 4.35 Therefore, I consider that the deletion of Policy 6.7, and the amendments sought by Gelita to Policy 6.8 are required to appropriately manage the potential for reverse sensitivity effects and give effect to the provisions of the LURP and the CRPS. The amendments proposed by Gelita to Policy 6.8 are:
- "Where activities that discharge into air locate appropriately and where the effects of the discharge are avoided, remedied or mitigated to avoid the potential for reverse sensitivity effects, then a longer consent duration may be available is appropriate to provide for ongoing operational certainty."*
- 4.36 I note that Policies AQL5 (Odour Nuisance), AQL6 (Avoid Dust Nuisance) and AQL7 (Avoid agricultural spray drift) of Chapter 3 of the NRRP more appropriately addresses reverse sensitivity effects. This is achieved through the use of terminology around avoiding the encroachment of sensitive activities on existing activities discharging into air, unless adverse effects of the discharge can be avoided or mitigated by the encroaching activity. Such wording would provide an appropriate alternative should the Hearing Panel not be of a mind to accept Gelita's proposed deletion of Policy 6.7.

### **Ambient and Localised Air Quality**

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<sup>6</sup> Page 11-6 of the Officer's Report

- 4.37 Gelita made a number of submissions and further submissions regarding the use of terminology pertaining to Ambient Air Quality. These included supporting changes requested by Fonterra Co-operative Group Limited (Fonterra) and Horticulture New Zealand in respect of the introductory chapter, definitions, and the request for a new objective in Section 5.
- 4.38 The key underlying issue with respect to these submissions, and further submissions, is that the CARP fails to reflect that effects on local air quality do not necessarily translate to an ambient air quality effect.
- 4.39 In addition to inclusions in the introductory text to the CARP, Fonterra requested a new objective that aims to manage the localised air quality effects associated with individual discharges to air, while recognising that these individual discharges may also have effects on ambient air quality. This objective reflects the approach accommodated within the CRPS.
- 4.40 The Officer's Report recommends that no differentiation be made between localised and ambient air quality in the CARP and therefore a new objective is not required.
- 4.41 Having regard to the evidence of Mr Cudmore on behalf of Gelita, Fonterra and Ravensdown, I consider the amendments sought by Fonterra are appropriate and the CARP should be amended accordingly. These amendments are required to give effect to the provisions of the CRPS, specifically those in Chapter 14 (Air Quality) which clearly distinguishes between localised and ambient air quality effects.

#### **Application of Best Practicable Option (BPO)**

- 4.42 Gelita was a further submitter to the submission of Carter Holt Harvey (CHH) that requested the insertion of provisions to avoid the CARP requiring immediate and uneconomic adoption of new plant or equipment without, in effect, consideration of the economic impacts on companies.
- 4.43 Investing in significant new plant or equipment is a major capital cost for companies. Paying for and physically undertaking such requirements if they need to be implemented in a short timeframe is likely to impact on other areas of Gelita's operations (such as its production capacity) or affect its ability to operate at all.
- 4.44 Gelita also supported the request from CHH that amendments are made to recognise that the adoption of the 'best practicable option' and 'best practice' needs to be considered and balanced against the requirement to provide for industry and economic growth, while also protecting the region's air quality.

4.45 While I support the amendments recommended in the Officer's Report in respect of these submissions, I consider it would also be appropriate to further recognise the balance sought in the CHH submissions more systematically throughout the CARP.

### **Ambient Air Quality Guidelines 2002 Update<sup>7</sup> - Policies 6.2, 6.3, 6.21 and Rule 7.18**

#### ***Introduction***

4.46 The CARP, as notified, outlines a framework, through its policies (Policies 6.2, 6.3 and 6.21) and rules (Rules 7.17 and 7.18), whereby the AAQG is to be used to both guide decision making and to restrict or prohibit discharges where the AAQG may or will be exceeded. These provisions, along with other provisions of the CARP, aim to implement Objectives 5.1 and 5.2 which seek to ensure that where air quality provides for people's health and safety it is maintained, and where it does not, then air quality is improved.

4.47 Gelita oppose the manner in which the CARP intends to utilise the AAQG on the basis that it is an inappropriate application of the AAQG and has the potential to significantly constrain activities which discharge contaminants to air.

#### ***Policies 6.2 and 6.3***

4.48 In relation to Policies 6.2 and 6.3, the high level intent of the policies was supported by Gelita (i.e., the requirement to implement a management response if ambient air quality exceeds the AAQG). However, there were a number of issues that it was considered needed to either be recognised or reflected within the policies. These issues were:

- (a) The AAQG relate to ambient air quality and therefore it is not appropriate for them to be used as an assessment tool for point source or individual discharges.
- (b) There is a lack of clarity around which contaminants the application of the AAQG relate to under these policies. Schedule 4 of the CARP clearly identifies which standards or guidelines apply to which contaminants, with Part 3 listing 14 contaminants that will be managed in accordance with the AAQG. As an aside, I note that Part 1 of Schedule 4 correctly identifies that carbon monoxide, nitrogen dioxide, ozone, PM<sub>10</sub> and sulphur dioxide are required to meet the NES.
- (c) To be able to effectively implement these policies, monitoring of the relevant contaminants will need to be carried out by CRC and made publically available.

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<sup>7</sup> Ministry for the Environment and Ministry of Health 2002. Ambient Air Quality Guidelines – 2002 Update. Air Quality Report No. 32, prepared by the Ministry for the Environment and Ministry of Health, May 2002.

This will be necessary for plan users in assessing activities against these policies and other provisions of the CARP.

4.49 Gelita's submission requested the following amendments (in tracked changes mode):

~~“Minimise Avoid, remedy or mitigate adverse effects on ambient air quality where measured concentrations in the airshed exceeds are between 66% and 100% of the guideline values, for the contaminants listed in Part 3 of Schedule 4, and set out in the Ambient Air Quality Guidelines 2002 Update, so that concentrations ambient air quality is improved do not exceed 100% of those guideline values.~~

~~Where concentrations of contaminants exceed 100% of guideline values set out in the Ambient Air Quality Guidelines, action is taken to improve air quality.”~~

4.50 The Officer's Report rejected Gelita's submission and recommends the retention of Policies 6.2 and 6.3 as notified. The reason for this recommendation is that the policies are vital to achieving the objectives of the CARP.

4.51 While I agree that the proposed policy intent needs to be retained within the CARP (i.e., if ambient air quality is degraded in terms of contaminants not managed by the NES then measures should be adopted that ensure that ambient air quality is improved), I consider that the Officer's Report does not appear to have considered the points raised in Gelita submission. I am still of the opinion that the matters raised in the submission are valid (as outlined above) and that Policies 6.2 and 6.3 should be amended in accordance with Gelita's request.

**Policy 6.21 and Rule 7.18**

4.52 While I support the retention of Policies 6.2 and 6.3, albeit with amendments, I do not support the retention of Policy 6.21 or Rule 7.18 which read as follows:

**“Policy 6.21** - Avoid the discharge of contaminants into air from any large scale burning device or industry or trade premise, where the discharge will result in the exceedance, or exacerbation of an existing exceedance, of the guideline values set out in the Ambient Air Quality Guidelines 2002 Update.

**Rule 7.18** -The discharge of contaminants into air from a large scale fuel burning device or from an industrial or trade premise established either: inside a Clean Air Zone; or outside a Clean Air Zone after 28 February 2015, that will likely result in guideline values, set out in the Ambient Air Quality Guidelines 2002 Update, being exceeded is a prohibited activity.”

- 4.53 Gelita sought that both these provisions be deleted on the basis that Policies 6.2 and 6.3 already outline an appropriate resource management approach utilising the AAQGs; and, large scale burning devices should not be subject to a more onerous approach whereby it is likely, particularly within clean air zones, that the driver would be to restrict or prohibit such a discharge without the opportunity to consider the potential effects of the activity.
- 4.54 I consider that these provisions risk prohibiting discharges from activities, and thus the activities themselves (including Gelita) without enabling decisions makers to consider the significance of the activity in terms of enabling people and communities to provide for their social, economic and cultural well-being. It may also not enable decision makers to consider other policy drivers contained in the CRPS, or the CARP itself, which would otherwise support an activity being able to continue to discharge. This, in my opinion, is a lack of balance, which does not reflect a sound resource management approach.

Mr Cudmore, in his evidence, discusses the purpose of the AAQG and the manner in which they are supposed to be utilised when establishing a framework for the management of air quality. In his opinion, the AAQG have been inappropriately applied in the CARP, through Policy 6.21 and Rule 7.18, as a management tool on individual discharges. The AAQG specifically state that they are *not designed to be used to assess the environmental and health impacts of individual discharges to air as required by the RMA, or a regional or district plan*<sup>8</sup>.

- 4.56 As the Officer's Report does not specifically address individual submissions, it is difficult to ascertain the actual outcome in relation to Gelita's submissions on Policy 6.21 and Rule 7.18. However, in relation to these provisions, the Officer's Report recommends the following:

*"Policy 6.21 is amended to provide clear guidance as to what is to be achieved in applying BPO in different receiving environments and to refer to the NESAQ as well as Ambient Air Quality Guidelines.*

*Rule 7.18 is deleted and replaced with a new rule or rules that enable application of BPO as appropriate to the receiving environment, and in line with the Objectives of the Plan."*

- 4.57 However, at the time of preparing this evidence, no amended wording was provided for either the policy or the rule and it is therefore not possible to comment further on any proposed amendments.

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<sup>8</sup> Ambient Air Quality Guidelines 2002 Update – Page 40.

### **Summary**

- 4.58 However, for the reasons outlined above, I am still of the opinion that Policy 6.21 and Rule 7.18 as notified are not appropriate and should be deleted. Policies 6.2 and 6.3 should be retained but with the amendments sought in Gelita's submission as discussed above.
- 4.59 In summary, in my opinion, and based on the technical advice of Mr Cudmore, the CARP needs to ensure that the utilisation of the AAQG within the resource management framework to be established by the CARP is consistent with the manner in which the AAQG are supposed to be used. That is, the AAQG are a tool that can be used to make decisions about the management of the ambient air resource (for example, it is degraded and should be improved) but they should not be used as a means of restricting or prohibiting individual discharges.

### **Resource Management (National Environmental Standards for Air Quality) Regulations 2004<sup>9</sup> - Policy 6.22 and Rule 7.14**

- 4.60 Policy 6.22 and Rule 7.14 of the CARP seek to ensure that significant PM<sub>10</sub> discharges, within clean air zones (which are also polluted airsheds), are offset in accordance (or in the case of Rule 7.14, partial accordance) with the NES.
- 4.61 Gelita opposed these provisions and requested the deletion of both Policy 6.22 and Rule 7.14 on the basis that they are unnecessary. In this regard, the submission outlined that under the RMA it is mandatory to consider the requirements of the NES for all relevant applications that discharge contaminants to air. This includes Regulation 17 of the NES which outlines the requirements for offsets. On this basis, Policy 6.22 and Rule 7.14 are just 'repeating' provisions of a mandatory statutory planning document.
- 4.62 The Officer's Report rejected Gelita's submission and recommends the retention of Policy 6.22 and Rule 7.14, although amendments are proposed to the rule to address inconsistencies, identified by other submitters, with Regulation 17 of the NES. The Officer's Report, in making its recommendation in relation to Policy 6.22, acknowledges that while Regulation 17 does not need to be repeated, but the policy is required in order to provide a resource consent pathway.
- 4.63 In my opinion, the recommendations provided in the Officer's Report do not justify the proposed retention of Policy 6.22 and Rule 7.14.
- 4.64 The sole justification for retaining these provisions are apparently the need to have a rule that triggers the need to seek a resource consent for PM<sub>10</sub> discharges, under the

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<sup>9</sup> As amended from 1 June 2011.



circumstances outlined in Rule 7.14, thus triggering the ability to assess the discharge and apply the proposed offsets. In my opinion, a specific PM<sub>10</sub> discharge rule is not required. The CARP contains a range of rules that trigger the need for activities, including activities that discharge PM<sub>10</sub>, to seek resource consents. If a resource consent is required, then the provisions of the NES must be considered in circumstances where the NES is relevant to the application (for example, if PM<sub>10</sub> is a component of the contaminants being discharged). This includes the need to consider offsets if the requirements of Regulation 17 apply. The only exception is permitted activities – these activities have effects that are minor (or less than minor) and therefore they will not be increasing PM<sub>10</sub> discharges by the amount outlined in Regulation 17 of the NES. On this basis, in my opinion, there is no need for Rule 7.14.

- 4.65 Rule 7.14 also does not reflect the actual requirements of Regulation 17 and as a result is more onerous than Regulation 17 itself. This observation relates to both the notified version of the rule and the amended version of Rule 7.14 contained in the Officer's Report. This is because Rule 7.14 does not recognise the exceptions provided in Regulation 17(2) whereby the regulation does not apply if an applicant is seeking a new resource consent for an already consented activity (held at the time when the application is lodged), where the same activity is occurring at the same site and the rate of PM<sub>10</sub> to be discharged is the same or less as that authorised by the existing resource consent. As I read Rule 7.14, activities seeking a new resource consent to replace an existing resource consent (if in a polluted airshed, as is the case for Gelita), where the activity has not changed, would be required to apply an offset under Rule 7.14 when they would not be required to do so under Regulation 17 of the NES.
- 4.66 Another issue is that the provisions of the NES may not remain unchanged during the time that the CARP will apply.
- 4.67 In summary, based on Gelita's original submission, and the issues outlined above, I consider that Policy 6.22 and Rule 7.14 of the CARP are unnecessary and inconsistent with the intent of the NES, and should be deleted.

#### **Offensive or Objectionable Effects - Policy 6.5**

- 4.68 Policy 6.5 sets out that offensive and objectionable effects associated with discharges to air are unacceptable, and such discharges are to be identified and managed.
- 4.69 While I consider that this policy generally reflects an appropriate resource management approach, there are circumstances where an offensive or objectionable effect may be acceptable, even if it is for only a short period of time or in a limited extent. This can be the case for long standing historical activities which may need to undertake upgrades to their processes, often in response to a changing receiving environment with increased

environmental expectations. Under this scenario, it will often take time for discharging activities to implement upgrades and in the meantime there may be offensive or objectionable effects, albeit only under certain circumstances.

- 4.70 This is very similar to the situation that Gelita has found itself in which resulted in its recent process to change conditions of its existing resource consent to provide an exemption period from the need to comply with its 'no offensive or objectionable effect' condition. The decision on the application for the change of conditions (CRC144081) allows Gelita to have an objectionable odour for a period of 24 months from the date of the decision, subject to making a number of ongoing site improvements, including operation of the site in accordance with BPO.
- 4.71 Given this example of Gelita's actual situation, I support the amendment sought by Gelita which provides for occasions when such effects may be acceptable, while still recognising that such effects are 'generally' unacceptable. The proposed amendments to Policy 6.5 are:

*“Offensive and objectionable effects are generally unacceptable and the frequency, intensity, duration, offensiveness and location of discharges into air must be identified and managed.”*

## **5. OTHER MATTERS**

### **Policy 6.12**

- 5.1 Policy 6.12 states:

*“Recognise that there is likely to be improvement in the management of discharges of contaminants into air over the life of resource consents and consider this for new and replacement resource consents.”*

- 5.2 Gelita opposed this policy and requested its deletion on the basis that it unnecessarily replicates provisions of the RMA, particularly section 104.
- 5.3 The Officer's Report rejected this submission and recommended retention of the policy, as notified. The Officer's Report stated that without this policy it will be difficult for decision makers to achieve emission reduction in order to achieve the objectives of the CARP. I disagree with this reasoning as there are a number of other policies in the CARP that provide similar guidance, for example, policies which refer to minimising or reducing the effects of discharges (Policies 6.2, 6.4, 6.10 and 6.19).

- 5.4 In my opinion, Policy 6.12 remains unnecessary and should be deleted. It adds nothing to the CARP in terms of development of an appropriate resource management framework for the region's air resources.

#### **Policy 6.14**

- 5.5 Policy 6.14 states:

*“Adopt the precautionary approach when assessing the effects of discharges where the effects are not predictable because of uncertainty or absence of information.”*

- 5.6 Gelita opposed this policy and requested its deletion. The reasons for this request were outlined in the submission as follows:

*“ ... The effects of significant discharges to air are more often than not assessed through modelling. It is not uncommon, for a degree of uncertainty to be ascribed to modelling approaches, no matter how widely used and accepted they are. In addition, the potential absence of information is most likely to be attributable to a lack of ambient air quality monitoring. Where either of these scenarios apply, it is considered unreasonable to place a significant additional burden on those seeking resource consents, especially when the RMA (particularly section 104) and the broader policy framework of the CARP provides a means to appropriately assess a discharge, its effects and the appropriateness of avoidance, remediation and mitigation measures. ...”*

- 5.7 The Officer's Report rejected this submission<sup>10</sup> and recommended retention of the policy as notified. The Officer's Report states that the deletion of this policy is not appropriate as the intent of the policy is to ensure that decision makers may adopt a precautionary approach where the potential significance of effects are unknown.
- 5.8 I consider that while there may be instances when it is appropriate to apply the precautionary approach, these should not be solely on the basis of uncertainty or a lack of information. Rather, it is more appropriate to consider the adoption of the precautionary approach when these conditions exist and when there are also likely to be significant adverse effects.
- 5.9 My understanding is that decision makers could consider such an approach on a resource consent application under section 104 (1)(c) of the RMA and therefore, in my opinion, the policy is unnecessary.

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<sup>10</sup> Recommendation R-6.14 – pp. 10-11 and 16-17 of the Officer's Report.

- 5.10 However, should the Panel be of a mind to retain Policy 6.14, I consider it would be more appropriate that it reflects a situation where uncertainties, and the associated potential for significant adverse effects, exist. I therefore propose the following wording for Policy 6.14:

*“A precautionary approach shall be adopted where, in combination, there is scientific uncertainty and a significant risk of serious adverse effects exists.”*

#### **Rule 7.28**

- 5.11 Rule 7.28 provides for the discharge of odour from an industrial or trade process, beyond the boundary of a property, provided the discharge is not provided for by other rules in the CARP, as a restricted discretionary activity. This rule was opposed by Gelita.
- 5.12 As currently drafted, the discharge of odour which does not extend beyond the property boundary and which is not offensive or objectionable, unless covered by Rule 7.52, has no specific rule and therefore is a discretionary activity under Rule 7.59. The CARP then provides for discharges of odour, which do extend beyond the property boundary, but which are not offensive or objectionable, as a restricted discretionary activity in accordance with Rule 7.28 (this rule). Rule 7.3 provides for discharge of odour that is offensive or objectionable beyond the boundary of a site, as a non-complying activity (and as noted in the Gelita submission, this activity status is supported).
- 5.13 Given the current hierarchy of rules, or lack thereof, Gelita requested that a permitted activity rule, subject to appropriate conditions, provide for the discharge of odour that is not offensive or objectionable.
- 5.14 As Mr Cudmore has discussed in his evidence, there are numerous activities that produce some odour beyond the site boundary without being offensive or objectionable. To require these activities to obtain resource consent could unduly constrain activities which would otherwise occur without the need for resource consent. If this rule hierarchy is retained, it could create uncertainty for those activities seeking to locate within Canterbury and potentially affect business decisions as to whether to invest in Canterbury.
- 5.15 I therefore consider that these activities should be provided for as a permitted activity. If a split is considered necessary however, whereby resource consent is required in circumstances where there is an odour discharge beyond a property boundary which is not offensive or objectionable, then the activity status of such an activity should be controlled rather than restricted discretionary. If the Panel were of a mind to make this amendment, I consider the following wording would be appropriate:

*“7.28 - The discharge of odour, beyond the boundary of the property of origin, from an industrial or trade premise is a ~~restricted-discretionary~~ controlled activity, except where otherwise permitted or prohibited by rules 7.29 to 7.59 below.*

*~~The exercise of discretion is restricted to the following matters:~~*

*The matters for control are as follows:*

- 1. The contents of the odour management plan to be implemented; and*
- 2. The frequency of the discharge; and*
- 3. The intensity of the discharge; and*
- 4. The duration of the discharge; and*
- 5. The offensiveness of the discharge; and*
- 6. The location of the discharge; and*
- 7. The matters set out in Rule 7.2.”*

- 5.16 While I have proposed the above wording for consideration, I am of the opinion that such a resource consent requirement is not needed. While I acknowledge that the discussion in the Officer’s Report regarding the rationale for this rule, I consider that the potential costs associated with implementing such a rule are likely to outweigh the benefits.

## **6. SUMMARY**

- 6.1 Broadly speaking, I am supportive of the provisions within the CARP. They aim to provide a resource management framework whereby activities are provided for while managing adverse effects associated with discharges.
- 6.2 However, there are a range of improvements and amendments that I consider need to be made so that industrial activities such as those carried out by Gelita, can take place within an appropriate resource management context without being unduly constrained.
- 6.3 As I have discussed, Gelita in particular faces significant pressure on its operations owing to reverse sensitivity effects that have occurred as a result of sensitive development being allowed to encroach into the Woolston industrial area. The CARP must give effect to the CRPS. To achieve this, one of the key changes to the CARP I consider necessary is amendment of the reverse sensitivity provisions so they appropriately reflect the policy direction established in the CRPS.

6.4 In summary, in identifying proposed changes to the provisions of the CARP, I have endeavoured to ensure that industrial activities are effectively provided for, while effects are appropriately managed.

**Kevin Bligh**

**18 September 2015**

## ATTACHMENT A - CANTERBURY REGIONAL POLICY STATEMENT 2013 – OBJECTIVES AND POLICIES OF RELEVANCE TO INDUSTRIAL ACTIVITIES

### Chapter 5 – Land-use and Infrastructure

#### ***Objective 5.2.1 – Location, design and function of development (Entire Region)***

Development is located and designed so that it functions in a way that:

- (1) achieves consolidated, well designed and sustainable growth in and around existing urban areas as the primary focus for accommodating the region's growth; and
- (2) enables people and communities, including future generations, to provide for their social, economic and cultural well-being and health and safety; and which:
  - (a) maintains, and where appropriate, enhances the overall quality of the natural environment of the Canterbury region, including its coastal environment, outstanding natural features and landscapes, and natural values;
  - (b) provides sufficient housing choice to meet the region's housing needs;
  - (c) encourages sustainable economic development by enabling business activities in appropriate locations;
  - (d) minimises energy use and/or improves energy efficiency;
  - ...
  - (i) avoids conflicts between incompatible activities.

#### ***Policy 5.3.1 – Regional growth (Wider Region)***

To provide, as the primary focus for meeting the wider region's growth needs, sustainable development patterns that:

- (1) ensure that any
  - (a) urban growth; and
  - (b) limited rural residential development occur in a form that concentrates, or is attached to, existing urban areas and promotes a coordinated pattern of development;
- (2) encourage within urban areas, housing choice recreation and community facilities, and business opportunities of a character and form that supports urban consolidation;
- (3) promote energy efficiency in urban forms, transport patterns, site location and subdivision layout;
- (4) maintain and enhance the sense of identity and character of the region's urban areas; and
- (5) encourage high quality urban design, including the maintenance and enhancement of amenity values.

**Policy 5.3.2 – Development conditions (Wider Region)**

To enable development including regionally significant infrastructure which:

- (1) ensure that adverse effects are avoided, remedied or mitigated, including where these would compromise or foreclose:
  - (a) ...
  - (b) options for accommodating the consolidated growth and development of existing urban areas;
  - ...
  - (e) significant natural and physical resources;
- (2) avoid or mitigate:
  - (a) ...
  - (b) reverse sensitivity effects and conflicts between incompatible activities, including identified mineral extraction areas; and
- (3) integrate with:
  - (a) the efficient and effective provision, maintenance or upgrade of infrastructure; and
  - (b) transport networks, connections and modes so as to provide for the sustainable and efficient movement of people, goods and services, and a logical, permeable and safe transport system.

**Chapter 6 – Recovery and Rebuilding of Greater Christchurch**

**Objective 6.2.6 – Business land development**

Identify and provide for Greater Christchurch’s land requirements for the recovery and growth of business activities in a manner that supports the settlement pattern brought about by Objective 6.2.2, recognising that:

- (1) The greenfield priority areas for business in Christchurch City provide primarily for the accommodation of new industrial activities;
- (2) Except where identified for brownfield redevelopment, areas used for existing industrial activities are to be used primarily for that purpose, rather than as a location for new commercial activities;
- (3) New commercial activities are primarily directed to the Central City, Key Activity Centres, and neighbourhood centres;
- (4) A range of other business activities are provided for in appropriate locations; and
- (5) Business development adopts appropriate urban design qualities in order to retain business, attract investment and provide for healthy working environments.



**Policy 6.3.6 – Business land**

To ensure that provision, recovery and rebuilding of business land in Greater Christchurch maximises business retention, attracts investment, and provides for healthy working environments, business activities are to be provided for in a manner which:

- (1) Promotes the utilisation and redevelopment of existing business land, and provides sufficient additional greenfield priority area land for business land through to 2028 as provided for in Map A;
- (2) Recognises demand arising from the relocation of business activities as a result of earthquake-damaged land and buildings;
- (3) Reinforces the role of the Central City, as the city's primary commercial centre, and that of the Key Activity Centres;
- (4) Recognises that new commercial activities are primarily to be directed to the Central City, Key Activity Centres and neighbourhood centres where these activities reflect and support the function and role of those centres; or in circumstances where locating out of centre, will not give rise to significant adverse distributional or urban form effects;
- (5) Recognises that new greenfield priority areas for business in Christchurch City are primarily for industrial activities, and that commercial use in these areas is restricted;
- (6) Recognises that existing business zones provide for a range of business activities depending on:
  - (i) the desired amenity of the business areas and their surrounds; and
  - (ii) the potential for significant distributional or urban form effects on other centres from new commercial activity.
- (7) Utilises existing infrastructure availability, capacity and quality;
- (8) Ensures reverse sensitivity effects and conflicts between incompatible activities are identified and avoided or mitigated against;
- (9) Ensures close proximity to labour supply, major transport hubs and passenger transport networks;
- (10) Encourages self-sufficiency of employment and business activities within communities across Greater Christchurch;
- (11) Promotes, where appropriate, development of mixed use opportunities, within Key Activity Centres provided reverse sensitivity issues can be appropriately managed; and
- (12) Incorporates good urban design principles appropriate to the context of the development.

**Chapter 14 (Air Quality)*****Policy 14.3.5 – Relationship between discharges to air and sensitive land-uses***

In relation to the proximity of discharges to air and sensitive land-uses:

- (1) To avoid encroachment of new development on existing activities discharging to air where the new development is sensitive to those discharges, unless any reverse sensitivity effects of the new development can be avoided or mitigated.
- (2) Existing activities that require resource consents to discharge contaminants into air, particularly where reverse sensitivity is an issue, are to adopt the best practicable option to prevent or minimise any actual or likely adverse effect on the environment.
- (3) New activities which require resource consents to discharge contaminants into air are to locate away from sensitive land uses and receiving environments unless adverse effects of the discharge can be avoided or mitigated.