

IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of the Proposed Canterbury Air Regional
Plan

**STATEMENT OF REBUTTAL EVIDENCE OF RICHARD MATTHEWS FOR
CARTER HOLT HARVEY PULP AND PAPER LIMITED**

9 OCTOBER 2015

1. SUMMARY

- 1.1 On 18 September 2015 I provided a primary statement of evidence on behalf of Carter Holt Harvey Pulp and Paper Limited (“Carter Holt Harvey”). The evidence identified limitations to the proposed Canterbury Air Regional Plan (“**pCARP**”) addressing matters raised by Carter Holt Harvey in its submissions. In that evidence I proposed several changes to the wording of various objectives, policies and rules.
- 1.2 I have subsequently read evidence statements submitted by other parties addressing similar matters to those discussed in my evidence, and have taken the opportunity to reconsider my evidence in the light of those statements.
- 1.3 In particular, I note that I generally support the changes to the objectives and policies proposed by other witnesses to address how discharges to air from existing activities are considered and to give better protection to the investment made in existing activities.
- 1.4 Having read the other statements, I support the deletion of Rules 7.17 and 7.18 as proposed by other witnesses, and agree that exceedances of ambient air quality guidelines or the National Environmental Standards for Air Quality can be addressed (and avoided as appropriate) through the policy framework included in the Proposed Canterbury Air Regional Plan.
- 1.5 However, if the Commissioners wish to retain a rules based approach to exceedances of the standards, then I have also reconsidered the wording of rules 7.17, 7.18, 7.27 and 7.59 proposed in my primary evidence statement to ensure that there are no unintended consequences (such as all existing activities defaulting to discretionary status) of the rules I proposed.

2. INTRODUCTION

QUALIFICATIONS AND EXPERIENCE

- 2.1 My full name is Richard John Matthews and I am a director of Mitchell Partnerships Limited, a specialist environmental consulting practice

with offices in Auckland, Tauranga and Dunedin. I have been engaged by Carter Holt Harvey to provide resource management and planning advice in respect of the pCARP.

2.2 My qualifications and experience are set out in my primary statement of evidence for this hearing.

2.3 I confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court Practice Note and that I agree to comply with it. I confirm that I have considered all the material facts and that I am aware of what might alter or detract from the opinions I express. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

3. SCOPE OF EVIDENCE

3.1 In preparing this rebuttal statement I have reviewed the evidence prepared on behalf of other submitters to pCARP provisions that I addressed in my primary evidence. This statement addresses the following matters:

- (a) The Objectives and Policies supporting existing industry activities with discharges to air, including reverse sensitivity matters;
- (b) A policy based approach to dealing with discharges to air where exceedances of ambient air quality guidelines or the National Environmental Standards for Air Quality may occur; and
- (c) Consequential wording amendments to the relevant rules and information requirements.

4. EXISTING INDUSTRY PROVISIONS

4.1 In Section 4 of my primary evidence statement, I discussed the importance of providing for existing industry activities in the pCARP, including providing appropriate certainty.

- 4.2 I note that several other submitters express similar concerns with respect to the wording of the notified pCARP, and propose adjustments to provide additional certainty and recognition of existing industry, or with respect to reverse sensitivity effects.
- 4.3 I generally support the changes to or deletion of policies and rules recommended by other witnesses as follows:
- (a) Policy 6.5;¹
 - (b) Policy 6.7² and a proposed new policy on reverse sensitivity;³
 - (c) Policy 6.8;⁴
 - (d) Policy 6.11 and 6.11A;⁵
 - (e) Policy 6.21;⁶ and
 - (f) Rules 7.18 and 7.19.⁷

5. POLICY BASED APPROACH

- 5.1 In particular, I note that having read the statements of other witnesses with respect to proposed Rules 7.17 and 7.18 I agree that these rules can be deleted in their entirety. I consider that the proposed policy framework in the pCARP, subject to changes as set out in various witness statements (as outlined above) and in the s42A report (to the extent supported in my primary evidence statement) would be sufficient to deal with any potential issues arising with respect to exceedances of ambient air quality guidelines or the National Environmental Standards for Air Quality.

¹ For example, evidence of C Hunter for Alliance Group, paragraph 5.9.

² For example, evidence of C Hunter for Alliance Group, paragraphs 5.10 – 5.14; evidence of J Keller for Christchurch CC, paragraphs 13.1 – 13.16; evidence of M Sparrow for Waimakariri DC, section 6; evidence of J Tuilaepa for Selwyn DC, paragraphs 27 – 32; evidence of J Ashley for Fonterra, paragraphs 40 – 49.

³ For example, evidence of J Keller for Christchurch CC, paragraph 13.16;

⁴ For example, evidence of C Hunter for Alliance Group, paragraph 5.15, evidence of E Buckingham for Winstone Wallboards, paragraph 22; evidence of J Ashley for Fonterra, paragraphs 40 – 49.

⁵ For example, evidence of D Le Marquand for the Oil Companies, paragraph 7.18.

⁶ For example, evidence of C Hunter for Alliance Group, paragraphs 5.16 – 5.18; evidence of D Le Marquand for the Oil Companies, paragraph 7.19 – 7.21.

⁷ For example, Evidence of C Hunter for Alliance Group, paragraphs 6.6 – 6.7; evidence of R Chilton for the Canterbury Aggregate Producers Group, paragraph 20 – 23, evidence of J Ashley for Fonterra, paragraph 56; evidence of C Hansen for Ravensdown, paragraph 59.

- 5.2 In my opinion, activity status (as provided for in Rules 7.17 and 7.18 as notified) is a blunt instrument to address potential exceedances of the guidelines or standards. It does not signify what the Council intent is with respect to such exceedances, only that it anticipates that it would be harder to gain consent (Rule 7.17) or that an application could not be made for such a consent (Rule 7.18).
- 5.3 I consider that it would be preferable to address such matters by way of policies setting out what the Council is expecting to achieve by way of air quality management in the region. The proposed policies (amended as per the discussion above) would provide that direction quite clearly and would be a relevant matter for decision makers to implement when considering consent applications for discharges to air.
- 5.4 In that respect, Rules 7.17 and 7.18 can be deleted and do not need to be replaced. The relevant objectives and policies would then be addressed when an application is made under any one of the other rules relating to discharges to air from large scale burning devices or from industrial or trade premises.

6. CONSEQUENTIAL WORDING CHANGES

- 6.1 Notwithstanding my above comments with respect to a policy based approach to the matters address by proposed Rules 7.17 and 7.18, if the Commissioners consider that an activity status – rule based approach is appropriate for the matters addressed by Rules 7.17 and 7.18, then I refer back to the alternate rules I proposed in my primary evidence.
- 6.2 That said, I have reconsidered the wording I proposed in my primary evidence statement for these rules in light of the evidence from other parties on the various rules in the pCARP and the implications of Rule 7.1, and propose further wording below to provide more certainty as to how the rule framework should work.
- 6.3 Rule 7.1 requires that where two rules are applicable to the same activity, the more stringent activity status applies:

Any activity must comply with all applicable rules in Section 7 of this Plan, except where explicitly stated to the contrary in any other applicable rule in this Plan. Where two rules are applicable to the same activity, the more stringent activity status applies.

6.4 The wording I proposed in my primary evidence for Rule 7.18 would potentially defeat the purpose of any permitted, controlled or restricted discretionary rule elsewhere in the pCARP applicable to the same activity.

6.5 If the commissioners wish to retain a rule based approach with respect to the matters in Rules 7.17 and 7.18, then the rules as proposed in my primary statement should apply with the following amendments.

7.17 The discharge of contaminants into air from a large scale solid fuel burning device or from an industrial or trade premise established after 28 February 2015 that will likely (based on air dispersion modelling) result in the National Environmental Standard for Air Quality standards being exceeded is a non-complying activity. [As per primary evidence]

*7.18 **Unless provided for under Rules 7.19 to 7.26 or Rules 7.28 to 7.58, ~~the~~** discharge of contaminants into air from a large scale fuel burning device or from an industrial or trade premise that was established prior to 28 February 2015 or will likely not (based on air dispersion modelling) result in the National Environmental Standard for Air Quality standards being exceeded is a discretionary activity.*

6.6 The red text change I propose above addresses any concern that Rule 7.18 would determine the activity status despite any other rule in the pCARP. I return to this point below.

6.7 I am also aware that there is some uncertainty with respect to what the term “based on air dispersion modelling” would mean in relation to a rule determining the status of an activity and how any modelling results should be interpreted with respect to a point source discharge.

6.8 With that in mind, I consider that it would be appropriate to include further guidance in the further information requirements listed in the Chapter 8 Schedules.

6.9 Schedule 1: “Information to be provided with applications for resource consent” includes a list of information requirements specific to resource consent applications for discharges to air from large scale fuel burning devices. The following should be added to the list of requirements, consequent to the change I have identified for Rules 7.17 and 7.18:

11. The assessment of compliance with the National Environmental Standard for Air Quality standards and air dispersion modelling referred to in Rules 7.17 and 7.18 should be undertaken in accordance with the Good Practice Guide for Assessing Discharges to Air from Industry, Ministry for the Environment, June 2008 and the Good Practice Guide for Atmospheric Dispersion Modelling, Ministry for the Environment, June 2004, or any subsequent updates to those guides.

6.10 Similarly, Schedule 1 includes a list of information requirements to be provided for resource consent applications for discharges to air from industrial or trade premises or processes. The above wording should be added as requirement 8 to the list of requirements.

Consequential Changes

6.11 As noted above, Rule 7.1 establishes that the most stringent activity status should apply where two rules deal with the same matter. In that regard, Rules 7.19 – 7.27 deal with other “large scale burning device” discharges to air, which could also be included under my primary evidence statement Rule 7.18 wording.

6.12 Similarly, Rules 7.28 – 7.59 deal with “other industrial and trade discharges of contaminants to air” and could equally be included under my primary evidence statement Rule 7.18 wording.

6.13 While I have proposed wording above to address this possibility, to address any residual uncertainty that there may be in this regard, I also suggest consequential changes to Rules 7.27 and 7.59 as follows:

- 7.27 *Any discharge of contaminants into air from any large scale fuel burning device that does not comply with the appropriate permitted activity rule and conditions, and is not prohibited, and is not otherwise provided for by rules 7.3, 7.4, 7.17, 7.18 or rules 7.19 – 7.26 is a discretionary activity.*
- 7.59 *Any discharge of contaminants into air from an industrial or trade premise or process that does not comply with the appropriate permitted activity rule and conditions, and is not prohibited, and is not otherwise provided for by rules 7.3, 7.4, 7.17, 7.18, 7.19 – 7.26 or 7.28 – 7.58 is a discretionary activity.*

Richard Matthews

9 October 2015