

BEFORE INDEPENDENT COMMISSIONERS

UNDER the Resource Management Act 1991
IN THE MATTER of Public Hearings on the Proposed Canterbury Air
Regional Plan

**SUBMISSIONS OF COUNSEL FOR MELROSE LIMITED
23 November 2015**

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MAY IT PLEASE THE PANEL:**Introduction**

- 1 These submissions are made on behalf of Melrose Limited ("Melrose"). Melrose operates intensive poultry farming interests in the Canterbury region and has an interest in the Proposed Canterbury Air Regional Plan ("pCARP").
- 2 While Melrose is broadly supportive of the pCARP, it seeks certain amendments that in its view will remove uncertainty and ensure the plan's provisions are effective and practical.

General Comments

- 3 Melrose, together with PIANZ, Inghams NZ Ltd and other industry stakeholders, is working towards trying to achieve consistency in the way that poultry farming is described and treated in regional and territorial planning documents. There is currently a wide variation.
- 4 Melrose notes that the pCARP defines free range poultry farming and does not seek to regulate or control the activity under the umbrella of 'intensive poultry farming'. Melrose entirely agrees that free range poultry farming should be unregulated provided certain performance standards are met.
- 5 Free range poultry farming has a lower stocking rate, meaning that the concentration/density of birds is lower than for some other types of poultry farming. There are also other types of poultry farm with low stocking rates that likewise produce minimal effects, for example breeder farms.
- 6 The Melrose approach to this plan is to request that any type of poultry farm that has either the same stocking rate as free range, or lower, should also be permitted because there are no adverse effects on the environment that need to be controlled. Again, reasonable performance standards are proposed.
- 7 On a wider view, Melrose is opposed to controls over any type of poultry farming that can meet reasonable performance standards. That is because poultry farming produces no greater effects than any other type of rural farming activity. Any odour effects beyond the boundary can be distinctive, but not objectionable and are infrequent and of short

duration. Dust effects are also limited to a short period at the end of each 7 week cycle, if at all, when the sheds are cleaned out. There are no onsite solid or liquid effluent disposal issues and water requirements a low compared to other forms of farming (dairy, goat, horticulture). There is a low need for fertiliser and any site needs can be satisfied from the litter produced. No offal pits or effluent ponds.

- 8 Melrose is asking for consistency and recognition that poultry farming is a normal rural activity that does not cause adverse effects on the environment. Its submission recognises that the pCARP has moved to recognise that free range poultry farming need not be controlled and has focused on seeking consistency with the approach adopted for free range.
- 9 On that basis, types of poultry farming that have a low stocking rate should also have the benefit of permitted status under this plan. There is no rationale for breeder farms to be treated as intensive poultry farms when they have a stocking rate of only 7 birds/m² (Inghams maximum) and possibly 8 birds/m² for some other companies. That is a very low stocking rate which has a correspondingly very low level of effects. It is not whether the birds go outside that is relevant. It is how many there are to produce any effects when they are inside and how those effects are managed.
- 10 Melrose's approach has been to propose a rule that recognises that if the effects are small, then there is no need for the regional council to control the activity and it should be permitted. That is also the premise on which the Resource Management Act 1991 ("RMA") is based. The effects will be small where there is a low density of birds.
- 11 It is not reasonable to impose restrictions on poultry farmers that do not apply to rural activities that have a greater likelihood of giving rise to adverse effects. Mr Peacocke will give evidence that intensive poultry farms can sometimes give off detectable odour effects on perhaps 2 or 3 days, (usually early morning) in a 6-7 week production cycle.
- 12 An effluent pond or offal pit will give off odour at all times that it is in use and particularly during the heat of the day. This plan has no set back distance for an effluent pond from a residential dwelling. (Rule 7.68) An open offal pit can be located only 150m from a sensitive activity. (Rule

7.70). It is hard to see consistency between those rules and the rules that apply to intensive poultry farming.

Definition of "Free Range Poultry Farming"

13 Melrose agrees that free range poultry farming should be a permitted activity, but seeks amendments to its definition to provide greater certainty. Melrose considers that the amendments it seeks are discreet and will not affect the intent of the provisions relating to activities of this kind.

Free range poultry farming	Means the keeping, rearing or breeding of poultry, whether for the purpose of production of poultry for human consumption or for the purpose of egg production, where: <ul style="list-style-type: none"> (a) all of the birds farmed have access to open air runs; and (b) permanent vegetation exists on the land where the birds are permitted to range; and (c) the stocking rate of the runs and weatherproof shelter to which the birds have access does not exceed <u>meets</u> the industry standard for the relevant bird type.
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"Permanent vegetation"

14 The current definition requires "permanent vegetation" to exist on the land where the birds are permitted to range. What constitutes permanent vegetation is unclear as the term is not defined in the pCARP and its meaning is open to interpretation.

15 Free range poultry farmers often erect shade protection for birds in lieu of relying on vegetative cover, which can take time to mature. Consequently, the only vegetation in many ranges is grass cover, which can be re-sown from time to time. The issue for Melrose is whether this cover constitutes "permanent vegetation" of the kind required by the definition.

16 As an alternative to using the term "permanent vegetation", Melrose submits that "vegetation" be used instead. Melrose does not oppose there being performance standards to require vegetated outside range

areas or landscape hedging which will assist with odour and dust accumulation and dispersion.

"Exceeding industry standards"

- 17 Melrose accepts the s 42A comment that the present wording will also accommodate operations that are achieving better than the industry standard.

Definition of "Sensitive Activity"

- 18 Melrose submits that the definition of "sensitive activity" be amended. Currently, the definition refers to a "notional boundary" without defining that term or its extent. Additionally, terms used in the definition are not consistent, adding ambiguity.

Sensitive activity

Means an activity undertaken in:

- (a) ~~the area within the notional boundary of an occupied dwelling; or~~
- (b) a residential ~~area or~~ zone; or
- (c) a site zoned for public amenity areas, including those parts of any building and associated outdoor areas normally available for use by the general public, excluding any areas used for services or access areas; or
- (d) a site zoned for use as a place of public assembly for recreation, education, worship, culture or deliberation purposes.

- 19 Melrose submits that part (a) of the definition be deleted because the requirement is not something that is under the control of the poultry farmer and is instead a matter that should be dealt with under the relevant district plan.
- 20 The way rule 7.62 operates means that an operation which is established as a restricted discretionary activity, could become a fully discretionary activity just because a dwelling has later established within 200m of the poultry farm. That may be relevant when the air discharge consent needs to be renewed. Having the sensitive activity linked to a zoning requirement gives the poultry farmer some certainty before making a significant investment decision.

- 21 Melrose would accept that a 200m setback from a dwelling existing at the time a new intensive poultry farms is established would be reasonable.
- 22 It is also unclear how a “residential area” differs from a “residential zone”, as the term is not defined. Melrose submits that its amendment to part (b) of the definition introduces certainty by removing the ambiguity of what constitutes a residential area while ensuring residential zones, where residential uses can establish as of right, are still captured as “sensitive activities”.
- 23 Changes to parts (c) and (d) of the definition are proposed to further improve certainty by ensuring only sites zoned for public amenity uses or places of assembly are captured, thereby preventing the unintended consequences of an unnecessarily broad definition such as the establishment of an informal (or formal) recreation facility next door: a walkway or cycleway or pony club for example.

Objectives and policies

- 24 Melrose is broadly supportive of the pCARP’s objectives and policies.

Rules

Status of intensive poultry farming where effects similar to free range

- 25 Melrose submits that intensive poultry farming activities that meet both the stocking rate of free range poultry farming activities and also reasonable boundary setbacks should also be permitted, and considers an additional rule to this effect be added to the pCARP. This is because the effects of an intensive farm at this stocking rate are no different from other normal farming activities that are permitted under the plan.
- 26 The s 42A report notes that free range farming includes a requirement for vegetation in the definition and this is what differentiates it from other types of poultry farming. With respect, it is hard to see how the grass cover described as being essential to counter any potential dust effects from chickens being outside could be relevant to Melrose’s proposal to permit low intensity poultry farming in indoor farms. Again, the argument from Melrose is that if the stocking rate is the same or lower than for a free range farm, the activity should be permitted because there will be no effects on the environment that are any greater than normal farming activities.

27 Melrose would not oppose a requirement that there be vegetation maintained on the property if the intent of the vegetation is to assist with odour or dust management.

28 Melrose has proposed the addition of a new rule to provide for free range and low intensity poultry farming as a permitted activity:

7.60A The discharge of contaminants into air from intensive poultry farming, including free range poultry farming in accordance with rule 4.4.2.5, where the maximum stocking density does not exceed 34 kg of live weight per square metre or 15 birds per square metre, whichever is greater, is a permitted activity provided that the following conditions are met:

(a) the discharge is located at least:

(i) 50m from any internal boundary; and

(ii) 100m from any boundary with sites zoned for sensitive activities; or

(iii) 200m from a sensitive activity, whichever is the lesser; and

(b) A management plan is prepared addressing how adverse effects of air emissions will be managed; and

(c) Documentation is maintained that records the matters of performance listed in (a) and (b) above. These records shall be made available on request by a Council enforcement officer.

Activities which fail to comply with 7.60A(b) or (c), and/or activities where the maximum stocking density is greater than 34 kg of live weight per square metre or 15 birds per square metre, will require a resource consent for a restricted discretionary activity and will be assessed in accordance with rule 7.6.2. Activities which fail to comply with 7.60A(a) of this rule will require a resource consent for a discretionary activity.

29 Melrose notes that its suggested changes in this regard contemplate the acceptance of its amendments to the definition of "sensitive activity" including an existing dwelling on a different site.

30 This new rule will add certainty by confirming that free range poultry farming is a permitted activity. While Melrose accepts its permitted status can be implied from the definition, it submits a rule clearly identifying the activity as permitted will address any uncertainty in this regard. This is because currently the activity is permitted by omission, which gives rise to uncertainty. On the basis the activity is defined in the pCARP, it should be specifically provided for in the rules.

Amend "catch all" rule 7.62

- 31 Melrose submits that the "catch all" rule for any new poultry farming activity be amended to clarify its role. It suggests the following wording be adopted:

7.62 *The discharge of contaminants into air from any new intensive poultry farming activity that is not provided for by rule 7.61 is a restricted discretionary activity provided the following condition is met:*

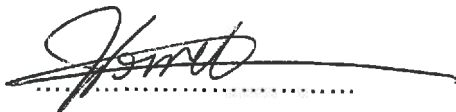
- (1) *The discharge is located at least 200m from an area zoned by a district plan for a sensitive activity.*

The exercise of discretion is restricted to the following matters:

- (1) *The quantity, quality and type of discharge and any effects arising from that discharge, including cumulative effects; and*
- (2) *The methods to control the discharge and avoid, remedy or mitigate any adverse effects, including the odour and/or dust management plan; and*
- (3) *The location of the discharge, including proximity to sensitive activities, wahi tapu, wahi taonga or sites of significance to Ngai Tahu; and*
- (4) *The matters set out in rule 7.2.*

- 32 Melrose notes that its suggested changes in this regard contemplate the acceptance of its amendments to the definition of "sensitive activity" such that the definition only includes locations that are specifically zoned for that use and over which the poultry farmer can have knowledge and input. Melrose would also accept that the setback should apply to existing dwellings on other sites.

Dated this 23rd day of November 2015



Dr J B Forret

Counsel for Melrose Limited