

BEFORE THE CANTERBURY REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Plan Change 5 to the Canterbury Land and Water Regional Plan

**STATEMENT OF EVIDENCE OF ANDREW JAMES BARTON ON BEHALF
OF THE COMBINED CANTERBURY PROVINCES, FEDERATED
FARMERS OF NEW ZEALAND**

Dated 22 July 2016

My full name is Andrew James Barton .

I am the General Manager of Amuri Irrigation Company Limited and a Director of Barton Resource Management Limited. I have 17 years of experience in water related resource management. I am the son of Neil and Davina Barton who own a 115 hectare farm at Bristols Road, Kingsdown, Timaru.

Background to irrigation development

Water permit CRC080842 was applied for prior to the notification of the Land and Water Regional Plan (LWRRP) and was granted in December 2014 for irrigation of for a ten year duration.

The application was granted before Variation 5 was notified. The LWRRP classifies the land as an orange zone and permitted nitrogen loss up to 20 kg/ha. It is important to note that the reporting officer has made an error (paragraph 6.172) and considered the property to be in a green zone.

The water permit application was considered and granted by the Canterbury Regional Council. The potential effects on groundwater quality were considered as part of the effects of the use of water for irrigation. The effects of the use of water deemed to be no more than the permitted baseline. Because the estimated nitrate nitrogen loss from the irrigated property would result in a loss of 12 kg/ha/year, a land use consent could not be applied for, the abstract from the Consenting officers report is included in Appendix 1.

Based on the consents obtained and the permitted nitrate nitrogen loss the well was drilled on 30 April 2015 prior to the notification of Variation 5. Irrigation infrastructure has been purchased and is in place on the farm.

Variation 5 has resulted in the requirement for a discharge permit to be applied for as a non-complying activity. By comparison in the Selwyn Waihora catchment (a red zone), the proposed discharge would be permitted because the nitrate nitrogen loss is less than 15 kg/ha/year.

This situation where irrigation investment has been made on a basis that the landuse was a permitted activity has already been considered through Variation 1 to the LWRRP, which was notified in February 2014. The Selwyn Waihora was a red zone. Some consents to take and use water had not yet been activated before 2009, when the baseline period started, but were activated

during the baseline period before the LWRRP was notified. At that time the use of land was permitted by the Natural Resources Regional Plan.

Rule 11.5.9A was included in Variation 1, which provided for the baseline to accommodate development through the baseline period. This rule provided the for greatest nitrate nitrogen loss in any year over the baseline period to form the nitrate nitrogen baseline loss. As an example, this rule provides for an irrigation development in 2011, which elevated the baseline nitrate nitrogen loss.

Variation 1 was very close to the end of the baseline period (June 2013), so a rule that allowed for investment made during the baseline period as a discretionary activity addressed the scenario that a farm had complied with all rules in the plan and had developed prior to Variation 1.

In this case 3 years have passed since the finish of the baseline period. The baseline period definition provides increased nitrogen loss from dairy farm development during the baseline period. However, the definition does not provide for lawfully established intensification and associated increases in nitrogen loss during and after the baseline period associated with irrigation development.

Rule 5.41A does not apply in this case because CRC080842 was granted after 18 January 2014 and does not include a condition relating to nitrate nitrogen loss. Such a condition was not warranted because the nitrate nitrogen loss was lower than the permitted rate.

In the discussion of the submission by Neil and Davina Barton, the S42A officer has missed the submission point that Variation 5 unduly penalises land use change associated with irrigation which was authorised but had not been given effect to. The January date in rule 5.41A has been backdated, and the result of that, is that what was previously a permitted land use is now proposed to be a non-complying land use.

The officer has taken on board the submission point relating to gaining a consent for irrigation but not having nutrient loss conditions because the activity was permitted. The Officer has recommended a change to policy allow increase in baseline loss in a green and light blue zone but not orange, which CRC080842 is located in, this should be altered to include the orange zone.

The relief sought in the submission on behalf of Neil and Davina Barton sought to amend the rules to allow for intensification up to a good management practice loss rate for the land use authorised by a water permit granted prior to 13 February 2016. This relief is still considered the most effective means of addressing the situation that has developed by adopting a January 2014 date, which is considerably prior to the notification of this Variation, rather than the date the variation was notified.

Plan change 1 Policies

11.4.12 Reduce discharges of nitrogen, phosphorus, sediment and microbial contaminants from farming activities in the catchment by requiring farming activities to: (a) Not exceed the nitrogen baseline where a property's nitrogen loss calculation is more than 15 kg of nitrogen per hectare per annum, unless Policy 11.4.12A applies; and (b) Implement the good management practices set out in Schedule 24; and (c) Implement a Farm Environment Plan prepared in accordance with Schedule 7 Part A, by from 1 July 2015 2017, when if a property is greater than 10 hectares and is within the Lake Area in the Cultural Landscape/Values Management Area; and (d) Exclude stock from drains, in addition to the regional requirements to exclude stock from lakes, rivers and wetlands.

11.4.12A Consider applications to exceed a property's nitrogen baseline where the applicant is seeking a nitrogen loss that is no greater than the maximum annual loss of nitrogen of any single 1 July to 30 June year over the 1 July 2009 to 30 June 2013 period, provided that the applicant demonstrates: (a) That the farming system has changed or been intensified through capital investment;

(b) That good management practices were undertaken during the 1 July 2009 to 30 June 2013 years and continue to be undertaken; and (c) How the industry-specific percentage further reductions indicated as being likely by Policy 11.4.14(1)(b) will be achieved.

Plan Change 1 Rules

11.5.7 & 8 – permit N loss up to 15 kg, regardless of baseline

11.5.9A The use of land for a farming activity in the Selwyn Te Waihora sub-region that does not comply with Condition 1 of Rule 11.5.7 or Condition 3 of Rule 11.5.9 is a discretionary activity, provided the following conditions are met:

1. A Farm Environment Plan has been prepared in accordance with Schedule 7 Part A; and

2. The nitrogen loss calculation for the property is no greater than the maximum annual loss of nitrogen of any single 1 July to 30 June year over the 1 July 2009 to 30 June 2013 period; and

3. Land that was not irrigated prior to 1 January 2015 is not supplied with water from an Irrigation Scheme described in Table 11(j).136

Rule 11.5.9A and Policy 11.4.12A were introduced to address the situation where a farmer had made an investment on farm and developed irrigation on the property that was permitted during the baseline period.

Variation 5 - baseline

Nitrogen baseline

a. the discharge of nitrogen below the root zone, as modelled with OVERSEER®, (where the required data is inputted into the model in accordance with OVERSEER® Best Practice Data Input Standards), or an equivalent model approved by the Chief Executive of Environment Canterbury, averaged over a 48 month consecutive period in the years of the period of 01 July 2009 – 30 June 2013 inclusive, and expressed in kg per hectare per annum, except in relation to Rules 5.46 and 5.62, where it is expressed as a total kg per annum from the identified area of land; and

b. in the case where a building consent and effluent discharge consent have been granted for a new or upgraded dairy milking shed in the period 01 January 2009 – 31 December 2013, the calculation under (a) will be on the basis that the dairy farming activity is operational; and

c. if OVERSEER® is updated, the most recent version is to be used to recalculate the nitrogen baseline using the same input data for the same period as used in(a) above.

Dated: 22 July 2016

Andrew Barton

Appendix one

Abstract from officer report for CRC080842

a. Adverse effect of use of water on water quality.

- i. The use of water is not classified under the TRP (and as such is discretionary under the RMA). The use of water is permitted under the pNRRP and the NRRP. The use of water is restricted discretionary under the pLWRP (Decisions). The relevant classification is the TRP/RMA classification.
- ii. I note the use of land is likely permitted under the pNRRP and not regulated under the TRP (but does not contravene section 9 of the RMA). The most updated planning framework (the pLWRP (Decisions)) does regulate the effects of land uses and the use of water on water quality.
- iii. Given the pLWRP (Decisions) is the most updated planning guidance regulating both the use of land and the use of water, I have considered this potential adverse effect under the guidance provided in this plan.
- iv. The applicant undertook Overseer modelling to determine whether or not additional consent would be required to support this application (under the pLWRP (Decisions)), as well as to assess the potential adverse effects on water quality.
- v. The applicant modelled a potential (average annual) Nitrogen loss figure of 12 kg/N/ha/yr from the property – for an irrigated dairy operation. I reviewed the Overseer provided by the applicant. I am satisfied that 12 kg/N/ha/yr is an obtainable figure on the subject land. See TRIM C14C/34049 for a copy of my Overseer audit sheet. I have included some comments on the modelling in this sheet. The N lost is mainly influenced by heavier soils on the property with a medium intensity farming operation.
- vi. Given the N loss figure obtained by the applicant, the use of land (and irrigation water) will be within the bounds of the permitted activity under Rule 5.53 (pLWRP (Decisions)). I do note that the applicant will be required to retain farm nutrient loss and operational information in accordance with Schedule 7, Part D of the pLWRP (Decisions) in order to meet the permitted rule requirements. The information required to be kept under this permitted requirement must be made available to ECan upon request.
- vii. Given the above, I consider the potential adverse effect of the use of water on water quality to be no more than what the pLWRP (Decisions) and the NRRP provide for.