

Before Hearing Commissioners at Christchurch

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*under:* the Resource Management Act 1991

*in the matter of:* Submissions on Proposed Plan Change 5 to the  
Canterbury Land and Water Regional Plan

*between:* **Fonterra Co-operative Group Limited**  
*Submitter*

*and:* **Canterbury Regional Council**  
*Respondent*

Statement of evidence of Susan Clare Ruston

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Dated: 22 July 2016

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## **1 INTRODUCTION**

- 1.1 My name is Susan Clare Ruston. Since January 2013 I have been employed by Fonterra Co-operative Group Limited ("**Fonterra**") as Environmental Policy Manager. I am responsible for working with central and local government, communities and our suppliers in the setting of environmental expectations and the identification of regulatory and non-regulatory means for delivering on these expectations.

## **2 QUALIFICATION AND EXPERIENCE**

- 2.1 I hold a Bachelor of Forestry Science (Hons) Degree from Canterbury University and a Masters of Public Administration from the Australian and New Zealand School of Government (via Victoria University). I have also completed papers in planning and business law through Waikato and Massey Universities, and in alternative dispute resolution through Massey University.
- 2.2 I have over 25 years of experience advising the public and private sectors on environmental and resource management matters - particularly in respect of agriculture, forestry, hydro-electricity generation, landfills, quarries, hazardous substances and waste and water management.
- 2.3 I am familiar with the provisions of Proposed Plan Change 5 ("**PC5**") to the Canterbury Land and Water Regional Plan and am authorised by Fonterra to provide this evidence on its behalf as a Fonterra representative. I am not offering evidence as an expert witness.

## **3 SCOPE OF EVIDENCE**

- 3.1 My evidence is structured as follows:
- a) Fonterra's interest in proposed PC5
  - b) Fonterra's environmental focus
  - c) Alternative consenting pathway
  - d) Good Management Practice Loss Rate – the sinking lid effect
  - e) Policy 4.38AB – the permitted baseline

#### **4 FONTERRA'S INTEREST IN PROPOSED PC5**

- 4.1 Fonterra is a global co-operative dairy nutrition company based in New Zealand. It is owned by approximately 10,600 farming families and it is supported by approximately 20,000 employees around the world.
- 4.2 Fonterra is the world's leading milk processor and dairy exporter which, through a "grass to glass" supply chain, delivers high quality dairy ingredients and a portfolio of respected consumer brands to customers and consumers around the world.
- 4.3 Canterbury is the home of more than 1,250 Fonterra shareholder farms. Canterbury's dairy sector employs more than 7,630 people and contributes annually in the order of \$3.33 billion to the Canterbury economy.
- 4.4 Fonterra has a number of processing plants in the Canterbury region. Our Darfield plant houses the world's largest milk dryer and our mozzarella plant in Clandeboye is the first of its kind in the world. Our patented technology means that frozen shredded mozzarella can now be made straight from milk in one day rather than two months.
- 4.5 Canterbury's Fonterra farmer shareholders and Fonterra's processing plants will either be directly impacted by the policies and rules in PC5 (i.e. those in Zones that have yet to have sub-regional chapters to the Canterbury Land and Water Regional Plan developed, or those in the Waitaki Zone) or will potentially be impacted should existing sub-regional chapters adopt use of the Portal in future plan changes.

#### **5 FONTERRA'S ENVIRONMENTAL FOCUS**

- 5.1 Fonterra takes responsible dairying seriously. To produce quality food you need a quality environment. Our "Supply Fonterra" programme includes on-farm environmental and food safety requirements, along with support to assist our farmers to meet regulatory requirements.
- 5.2 The environmental components of this programme include: Effluent Management; Nitrogen Management; Waterway Management; Water Use Management; and an Annual Farm Environmental Assessment.
- 5.3 Our Waterway Management programme has seen Canterbury Fonterra farmer shareholders permanently fence 99% of the length of waterways greater than 30cm deep and a 1m wide, and they now have 99.6% of water crossings bridged or culverted.

- 5.4 Our Nitrogen Programme requires all Fonterra farmer shareholders to provide farm information for estimating year-end nitrogen loss (and efficiency). This programme is the largest use of OVERSEER® on an annual basis in New Zealand. It entails the collection and collation of farm information for all Fonterra farmer shareholders, its entry into the OVERSEER® model and reporting back to the farmers. Over the past 4 years Fonterra has processed in the order of 20,000 OVERSEER® files and provided the same number of individual farm reports to farmers.
- 5.5 At a community level, Fonterra has partnered with the Department of Conservation to help local groups make a real difference to the health of their waterways. Together we are co-ordinating a \$20 million community investment fund over 10 years in five key catchments. In Canterbury this work has focused on the Te Waihora Catchment.

## **6 ALTERNATIVE CONSENTING PATHWAY**

- 6.1 PC5 provides that no consent can be issued for a farming activity to exceed the Farm Portal generated Baseline Good Management Practice Loss Rate (i.e. an on-farm limit).
- 6.2 The definition of the Baseline Good Management Practice Loss Rate in PC5 includes the words "...; and where a Baseline GMP loss rate cannot be generated by the Farm Portal it means the nitrogen baseline".
- 6.3 It is unclear whether this clause is intended to provide for farms whose inputs cannot be processed by the Portal (possibly due to OVERSEER® issues that Mr Cullen's evidence illustrates) or other anticipated limitations of the Portal. In any event, the definition appears to allow some farms to be limited to their nitrogen baseline.
- 6.4 Fonterra supports recognition that the portal may not always be a reasonable route for setting nitrogen loss limits. However we are concerned that the fall back position is meeting the baseline nitrogen limit without necessarily factoring in good management practice.
- 6.5 In addition to the matters above, Fonterra is also concerned that the proposed Farm Portal cannot be relied on to always generate representative good management practice limits. Our concerns are founded on the evidence presented on behalf of DairyNZ and Irrigation New Zealand with respect to the current proxies used in the Farm Portal; and on the evidence of Mr Cullen on the limitations of OVERSEER® and therefore the Farm Portal.

- 6.6 Given the potential for the Farm Portal to wrongly model good management practice limits for individual farms, Fonterra is seeking removal of the prohibited activity status when the use of land for farming cannot meet the Portal generated limits. We consider that it is unreasonable to make an existing lawfully established activity prohibited on the basis of a number generated by a model that does not reliably reflect all farming systems.
- 6.7 Fonterra is also seeking an alternative consenting pathway, which does not rely on the portal, for authorising farming activities where it can be demonstrated that the Portal generated limit is not representative of their farming system. This alternative pathway must provide for the limit to be adjusted to reflect good management practices.
- 6.8 We appreciate that an alternative pathway must not open the door for all farms to avoid use of the Portal. The evidence of Mr Willis sets out a gateway test for applicants using the alternative pathway and we support this approach.

## **7 GOOD MANAGEMENT PRACTICE LOSS RATE – THE SINKING LID EFFECT**

- 7.1 A number of rules in PC5 include the following matter that the Council reserves control over or has discretion over:
- “Methods that require the farming activity to operate at or below the Good Management Practice Loss Rate, in any circumstance where that Good Management Practice Loss Rate is less than the Baseline GMP Loss Rate”.*
- 7.2 This approach creates a sinking lid on nitrogen loss.
- 7.3 Fonterra agrees that farmers should be adopting good management practices. We also agree that adoption of a baseline at good management practice is a reasonable starting point for nitrogen loss allocation. However, we do not agree with adopting a sinking lid effect as a means to further reduce nitrogen loss allocation. The reasons for this are:
- a) There may be atypical events outside the control of the farmer that lead to reduced nitrogen losses. Examples of atypical events include removing stock from the property in response to drought, biosecurity or animal health issues (e.g. tuberculosis or foot and mouth disease), farmer ill health/death, and changes in markets. Farmers need the ability to remove stock for periods of time without the threat of not being able to return to their normal farming practices.

- b) Farmers need the ability to manage their farms within defined limits. Within that limit farmers should be able to make decisions that best fit their situation, the markets and their ambitions at the time. For example, a dairy farmer who would normally winter his stock on his own farm may in a particularly wet winter arrange to graze his stock on another property to prevent soil damage at home. However this would have the effect of reducing his four year rolling average Good Management Practice Loss Rate. The sinking lid approach would create the incentive to keep the cows at home while this may not be the best environmental outcome.
  - c) The threat of not being able to return to your baseline good management practice limit will likely distort land use decisions so as to prevent facing lower nitrogen loss limits in the future.
  - d) The economic cost of the sinking lid will likely outweigh the environmental gains from the lower nitrogen loss limit. A sinking lid will prevent those affected from being able to respond to market changes. It will likely lead to land not being able to realise its full economic potential and may, as in the example above, even have adverse environmental consequences. Over time this approach would ratchet down Canterbury's options for primary production. This could have significant implications for Canterbury's economy.
- 7.4 Fonterra seeks removal of requirements for "farming activities to operate at or below the Good Management Practice Loss Rate, in any circumstance where that Good Management Practice Loss Rate is less than the Baseline GMP Loss Rate" i.e. removal of the sinking lid approach.

## **8 POLICY 4.38AB – THE PERMITTED BASELINE**

- 8.1 Policy 4.38AB states:

*"When considering any application for resource consent for the use of land for a farming activity, the consent authority must not disregard any adverse effect of the proposed activity on water quality on the basis that this Plan permits an activity with that effect".*

- 8.2 The effect of Policy 4.38AB is that all effects of an activity will be considered in each application for the use of land for a farming activity, even though some of those effects are permitted as of right.

8.3 Section 104(2) of the Resource Management Act 1991 provides Council with the option of having regard to, or disregarding, adverse effects of an activity on the environment where the plan permits an activity with that same effect. This recognises that when an application is declined it is possible that the applicant will still undertake the activity to the extent that the permitted activity rule allows - hence declining an application on the basis of these same effects achieves little.

8.4 On this basis Fonterra seeks removal of Policy 4.38AB.

## **9 OTHER MATTERS**

9.1 Fonterra is also seeking a number of changes to Part B of PC5, i.e. the provisions for the Waitaki Sub-region. These are outlined in the evidence of Mr Willis.

Dated: 22 July 2016



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Susan Clare Ruston