

**Before Independent Commissioners Appointed by the Canterbury  
Regional Council**

In the matter of  
And

The Resource Management Act 1991

In the matter of

Applications by **Oceania Dairy Limited** for all consents necessary for the construction of a 7.5 kilometre pipeline and discharge of treated wastewater from a milk-processing factory situated at 30 Cooney's Road, Glenavy, into the Coastal Marine Area.

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**JOINT WITNESS STATEMENT-Planning**

**DATED: 7 July 2020**

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## Introduction

1. This Joint Witness Statement (JWS):
  - a. Relates to the planning assessment against effects that may arise from Oceania Dairy Limited's proposal to construct a 7.5 kilometre pipeline and discharge treated wastewater from a milk-processing factory situated at 30 Cooney's Road, Glenavy, into the Coastal Marine Area.
  - b. Reports on the outcome of expert conferencing between the planning experts who have filed evidence in this matter.
2. The expert conference was held on 7 July 2020, via Microsoft Teams phone conference. In attendance was Ms. Sukhi Singh (Babbage Consultants Limited), Ms. Kelly Walker (Reporting Officer, Canterbury Regional Council) and Ms. Kylie Hall (Aoraki Environmental Consulting). In addition, the meeting was attended by the following planners who have not provided written evidence for the subject hearing: Ms. Zella Smith (Principal Consents Planner, CRC), Ms. Courtney Guise (Aukaha) and Mr. Joseph Gray (Babbage Consultants Limited).
3.
  - a. The witnesses acknowledge that the JWS is to clearly record the issues agreed and not agreed, between them. Succinct reasons are to be captured in the JWS. This will assist all parties and the decision makers in focussing on the matters that remain in dispute and the significance of them;
  - b. Expert conferencing is not a forum in which compromise or a mediated outcome between the experts is anticipated. Unlike mediation, the "aim" is not resolution. Rather, the aim is clear identification of and narrowing of points of difference.
4. Based on the evidence filed up to 7 July 2020, it was agreed that the following matters were a good starting point for discussion:
  - a. Whether effects of the discharge on coastal water quality are less than minor, and therefore whether the application aligns with the objectives and policies framework of the New Zealand Coastal Policy Statement (2010), the Canterbury Regional Policy Statement (primarily chapter 8 Coastal Environment) and the Regional Coastal Environment Plan (2005).
  - b. Whether the effects on cultural values have been assessed, and the extent to which the application aligns with the New Zealand Coastal Policy Statement, the Canterbury Regional Policy Statement and the Regional Coastal Environment Plan in regards to the effects on cultural values. Furthermore, the extent to which the application has given regard to the relevant iwi management plans.
5. These issues were discussed in terms of specific objectives and policies as outlined below.

## NZ Coastal Policy Statement

6. All experts agree that the NZCPS is a key relevant document for consideration in assessing this application. The key relevant objectives are 1, 3 and 6, and key policies are 2, 3, 21 and 23 and these were discussed specifically below.

*Objective 1: To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by...*

7. Based on the advice of Dr. Wilson (applicant's coastal water quality expert) that the effects on coastal water quality are anticipated to be less than minor beyond the mixing zone, Ms. Singh considers that the application aligns with Objective 1.
8. Dr. Bolton-Ritchie (CRC's coastal water quality expert) does not consider effects on coastal water quality can be qualified to be less than minor beyond the mixing zone, particularly in terms of dissolved inorganic nitrogen and dissolved reactive phosphorus, therefore Ms. Walker does not consider this objective can be met in its entirety.
9. Ms. Hall does not consider this objective can be met as regardless of treatment level the environment is not maintained or enhanced and the proposal is also inconsistent with this objective due to unknown level of effects.

*Objective 3: to take into account the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by...*

10. Ms. Hall considers this objective cannot be met as the relevant Iwi Management Plan was not taken into consideration by the applicant. Ms. Hall also noted that discharge into ocean is abhorrent to Tangata Whenua, and once discharge occurs into a water body the Runanga would not use the water body. Ms. Hall also notes that potential failure of the system was not taken into account.
11. Ms. Singh noted that consultation was undertaken beforehand but that the applicant was not comfortable trying to assess the application against IMP, as it was anticipated that this will be captured in the Cultural Values Assessment Report. Ms. Singh considers that the applicant has made a genuine effort to consult with tangata whenua, and is committed to on-going constructive engagement.
12. Ms. Walker considers the proposal is partially consistent as the applicant undertook consultation with Waihao Runanga prior to lodging the application, and commissioned a Cultural Impact Assessment (CIA).

*Objective 6: To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development*

13. Ms. Hall and Ms. Walker agreed that economic values were provided for, but the applicant has not demonstrated social and cultural wellbeing have been provided for.
14. Ms. Singh considered assessment was provided by the applicant on all values. There is a functional need for the discharge to be located in the coastal environment (which was based on a comprehensive assessment of alternatives). Ms. Singh notes that this policy has a focus on "taking into account the principle of the Treaty of Waitangi", and

considers that the applicant has made a genuine effort to consult with tangata whenua, and has acted in good faith to ensure good environmental outcomes.

*Policy 2 The Treaty of Waitangi, tangata whenua and Māori heritage*

15. Ms. Walker considers the proposal is partially consistent due to consultation undertaken beforehand and commissioning of a cultural impact assessment.
16. Ms. Singh notes the applicant attempted on several occasions to consult with iwi but there were difficulties (as outlined in Ms. Singh's evidence).
17. Ms Hall does not consider the applicant has recognised the importance of the coastal marine area and surrounding offshore areas to tangata whenua.

*Policy 3: Precautionary approach*

18. Ms. Walker and Ms. Singh agree that policy 3 is met from a scientific point of view.
19. Ms. Hall considers that the application is not consistent with this policy.

*Policy 21: Enhancement of water quality*

20. Ms. Walker and Ms. Singh consider that Policy 21 does not apply as the water quality of the area subject to the application is deemed to be pristine. Policy 21 is not relevant as the focus of Policy 21 is on coastal environment that had "deteriorated".
21. While Ms. Hall agrees with the above, however, given her concerns in relation to cumulative effects, she considers that the overall water quality will not be enhanced by the discharge.

*Policy 23 Part 1: Discharges, having particular regard to the sensitivity of the receiving environment...*

22. Ms. Hall is of the view that the proposal is not consistent with this policy from a cultural point of view.
23. Ms. Singh is of the view that this is the key relevant policy in respect of the discharge matter. She considers that the policy anticipates coastal discharges, in that Policy 23(1)(e) provides for the use of the "smallest mixing zone". The details in terms of what is deemed to be a suitable mixing zone is set out in Policy 7.1 of the RCEP, which uses the terminology "reasonable mixing zone". Ms. Singh considers that the application aligns with Policy 23(1), which is supported by the various technical reports. Ms Singh further notes that the focus of Policy 23(1)(d) is to "avoid significant adverse effects on ecosystems and habitats after reasonable mixing" and that the application material illustrates that the adverse effects are "less than minor".
24. Ms. Walker agrees that the mixing zone is a suitable size, however she accepts the advice of CRC's water quality specialist in regards to the level of adverse effects after reasonable mixing.

*Policies 24 to 27: Coastal Hazards*

25. Based on technical advice received from their respective experts, Ms. Singh and Ms. Walker agree the application is consistent with these policies.

#### *Policy 29*

26. All experts agree this policy does not apply as there are no references to Restricted Coastal Activities in the Regional Coastal Environmental Plan.

#### National Policy Statement for FWM-2017

27. Ms. Hall considers this is applicable due to interaction between freshwater and coastal water from cumulative effects from coastal discharges and effects on Wainono Lagoon Mataitai area.
28. Ms. Singh and Ms. Walker consider that the NPS for FWM 2017 does not apply to this application due to nature of the application (which is primarily in the coastal environment) and the distance to closest freshwater source (being approximately 7km away). As such, an objective and policy assessment against this NPS is not required.

#### Section 138A of the RMA

29. This was referenced in Ms. Hall's evidence, however the experts agree that this section of the RMA does not apply as refers to special provisions for dumping, which is a defined term in the RMA.

#### Regional policy statement (RPS)

30. *Policy 5.3.9:* Experts agree that this application does not fall within the definition of "Regionally significant infrastructure" set out in the RPS. However, Ms Singh notes that from an economic point of view, the operation of the Oceania Dairy Factory is regionally significant to the economic well-being of the community.
31. *Objective 8.2.4:* Ms. Singh considers the proposal is consistent from a scientific point of view. Ms. Hall considers the proposal is not consistent culturally.
32. *Objective 8.2.6:* Ms Singh considers that the proposal is consistent with this policy. Ms Walker considers that the proposal is not consistent with this policy based on the advice of ECAN's water quality specialist.
33. *Policy 8.3.7:* Experts agrees this policy does not apply as water quality is not currently degraded.
34. *Chapter 9: Ecosystems and indigenous biodiversity:* applicant has not proposed any offsetting prior to the hearing on ecological effects. The experts agree the lizard management plan is remedying and mitigating, not offsetting.

#### Regional Coastal Environment Plan

35. Experts note that this is an older document and is due to be reviewed however it does align with the higher order documents such as NZCPS and is not considered to be inconsistent with the NZCPS and is a relevant document for consideration in assessing this application.
36. *Objective 7.1:* Ms. Hall notes that the main issue is discharge to the coast, and effect on future generations as mahinga kai values will be affected, therefore the application is not consistent with this objective. Ms. Singh notes that based on the

applicant's expert evidence, there are no changes anticipated to biophysical environment outside of the mixing zone. Ms. Singh notes this is a very broad objective applying to the coastal environment, but the RCEP has more specific framework in place for discharge consents.

37. *Policies 7.6-7.8*: reasonable mixing zone. Ms. Singh and Ms. Walker agree that the size of the mixing zone is suitable however respective coastal water quality experts disagree on level of effects beyond mixing zone.

38. *Policies 8.7 and 8.15*: Experts agree these does not apply to the application as the proposal is not an Area of Significant Natural Value.

#### Other matters

39. Proposed South Eastern Marine Protection Area: this was discussed but none of the experts were aware of where it was in the process.

#### Participants



Kelly Walker (Canterbury Regional Council)



Sukhi Singh (Babbage Consulting)



Kylie Hall (Aoraki Environmental Consulting)