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Subject: PC7 evidence - Synlait (submitter number 188) [DC-Documents.FID2813963]
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Attachments: [image001.png](#)
[Synlait EIC - Tim Ensor Final.pdf](#)
[Synlait EIC - Andrew Bull Final \(11769205 1\).PDF](#)

Good afternoon,

Please find **attached** the following evidence, filed on behalf of Synlait Milk Limited (submitter number 188):

- Timothy Ensor – planning evidence; and
- Andrew Bull – company evidence.

Kind regards,
Jamie.

Jamie Robinson
Associate

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In the matter of the Resource Management Act 1991

And

In the matter of Proposed Plan Change 7 to the Canterbury Land and Water
Regional Plan

**STATEMENT OF EVIDENCE OF TIM ENSOR FOR SYNLAIT MILK
LIMITED**
17 July 2020

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INTRODUCTION

- 1 My full name is Timothy Alastair Deans Ensor. I am currently a Principal Planner with Tonkin & Taylor Limited having previously been employed by AECOM New Zealand Limited and its predecessor, URS New Zealand Limited. I have been a consultant planner for approximately 13 years. Prior to consulting I was employed by Environment Canterbury for approximately two and a half years as a consents planner.

QUALIFICATIONS AND EXPERIENCE

- 2 I hold a Bachelor of Science and a Bachelor of Arts with honours majoring in Geography, obtained from the University of Canterbury in 2002. In 2012 I graduated with a Post Graduate Diploma in Planning from Massey University. I am an associate member of the New Zealand Planning Institute.
- 3 I have worked throughout the South Island assisting private and public sector clients with obtaining statutory approvals, undertaking environmental impact assessment and policy analysis for projects, and providing expert planning evidence at plan and consent hearings. These clients include the Department of Conservation, the NZ Transport Agency, Environment Canterbury, the Canterbury Aggregate Producers Group, Fulton Hogan Limited and ANZCO Foods Limited.

BACKGROUND

- 4 I am familiar with the provisions of PC7 to which these proceedings relate. In preparing my evidence, I have reviewed the relevant parts of the section 32 Report and the section 42A Report. In preparing my evidence, I have also reviewed:
 - 4.1 The evidence of Andrew Bull, prepared for Synlait Foods Limited, as part of the Synlait Milk Limited submission.

CODE OF CONDUCT

- 5 I confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court's Practice Note as updated in 2014. My evidence has been prepared in compliance with that Code. In particular, unless I state otherwise, this evidence is within my area of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

SCOPE OF EVIDENCE

6 My evidence will cover the following matters:

6.1 The transfer of water for industrial purposes.

6.2 Industrial wastewater applied as part of a farming activity.

WATER FOR INDUSTRIAL PURPOSES

7 PC7 includes Rule 14.5.12 that provides for the transfer of water permits as a restricted discretionary activity subject to meeting the conditions of the rule. Condition 5(b) of Rule 14.5.12 requires that in an overallocated surface water catchment or groundwater allocation zone, a percentage of the water being transferred must be surrendered.

8 Synlait's submission has sought an amendment to PC7 Policy 14.4.13 and Rule 14.5.12 to include an exemption from Condition 5(b) of Rule 14.5.12 where: *"the transfer is to take and use water for industrial or trade processes, and the use will result in a neutral or positive water balance"*.¹

9 The requirement to surrender water on transfer is a tool to *"assist with phasing out over-allocation of freshwater resources"* contained in Policy 14.4.13. Where it can be demonstrated that the activity being enabled by the transfer of water will result in a neutral or positive water balance, this activity is not contributing to the over-allocation issue, and in fact may assist with phasing out over-allocation in cases where the activity results in a positive water balance.

10 This matter was traversed through submissions and hearings for Variation 1 to the proposed Canterbury Land and Water Regional Plan (pCLWRP). Evidence was presented to the Variation 1 hearing panel by Mr Peter Callander for Fonterra Co-operative Group Limited (Fonterra) in relation to Fonterra's Darfield operation². In his evidence Mr Callander explained that the milk processing plant generates condensate water that is then irrigated to land resulting in drainage to groundwater with the resulting contribution to the groundwater resource.

¹ PC7-188.15

² Statement of Evidence of P Callander, Fonterra Co-operative Group Limited, para 6, pages 1 and 2.

- 11 The decision report for Variation 1 to the PCLWRP stated that: “*We are satisfied on the evidence that in situations such as those described by the Fonterra witnesses, there should be no restriction on the volume of water able to be transferred.*”³
- 12 There are other industrial activities that have the potential to contribute to the groundwater resource in the way described by Mr Callander. As described in the evidence of Mr Andrew Bull, the Talbot Forest Cheese Factory in Temuka ‘generates’ water from its cheese making processes, with tradewaste currently discharged to the Timaru District Council wastewater system, and other water discharged (as part of the whey discharge) to land as part of farming operations. This discharge of whey results in an approximately neutral water balance, and future developments to the system may result in a positive water balance. In these scenarios, my view is requiring the surrender of water on transfer in order to phase out over-allocation is unnecessary as they are not contributing to over allocation in the first place. Amending Policy 14.4.13 and Rule 14.5.12 as requested in Synlait’s submission, also assists in aligning sub-regional chapters of the Canterbury Land and Water Regional Plan, thereby increasing the ease of plan use across sub-regional chapters.
- 13 In terms of s32(1)(b)(ii), the proposed amendments to Policy 14.4.13 and Rule 14.5.12 provide the potential for additional economic, social and environmental benefits by providing a source of water to sustain local industry, and potentially making a net contribution to the ground water resource (as a minimum there will be a neutral water balance, as required by the proposed policy and rule). This will in turn increase the effectiveness and efficiency of Policy 14.4.13 and Rule 14.5.12 by assisting with phasing out over-allocation and therefore meeting objectives to safeguard water related values⁴, and recognising the role water plays as an enabler of economic and social wellbeing as articulated in Objective 3.11 of the LWRP.

NUTRIENT LOADING

- 14 To assist in achieving water quality targets, PC7 Policy 14.4.28 and 14.4.41 require point source discharges of nitrogen from industrial or trade waste disposal activities to reduce nitrogen losses by 30% below current consented rates by 1 January 2035. These policies apply in addition to Policy 14.4.19, which seeks to achieve water quality targets by requiring a stepped reduction in nitrogen losses beyond Baseline GMP Loss Rates.

³ Report and recommendations of the Hearing Commissioners adopted by council as its decision on 23 April 2015, Paragraph 515, page 89.

⁴ For example Objective 3.8 of the LWRP.

- 15 The discharge of nitrogen from Synlait’s industrial activities is done as part of third-party farming activities. The waste generated (for example whey) is transported to the farm, and then discharged as part of the farming operation. Synlait’s submission raised concerns that the combination of Policy 14.4.28 and 14.4.41, and Policy 14.4.19 may lead to the ‘double counting’ of the required nitrogen loss reductions. Double counting in this case refers to both restrictions applying to the same discharge, resulting in a greater overall reduction in nitrogen loss than intended by PC7.
- 16 In addressing Synlait’s submission, the s42A officer has stated: *“it is our view that the staged reductions and industrial discharge reductions do not ‘double count’ industry discharges applied as part of a farming activity. The starting point that each required reduction is measured from is different (current consented discharge, and baseline GMP), so the reductions would not compound, rather a reduction made in one area may contribute to meeting the other required reduction as well.”*⁵
- 17 While the starting point for the proposed reduction is different between the industrial and farming discharge policies, all require nitrogen loss reductions. Industrial activities are required to reduce nitrogen losses by 30% below current consented rates by 1 January 2035, and farming activities at the point of the industrial discharge are also required to reduce nitrogen loss below the GMP Baseline in accordance with Table 14(zc).
- 18 Based on my understanding of the policy framework, a farming operation that incorporates an industrial discharge would be able to factor in the 30% reduction in nitrogen loss associated with the industrial discharge when calculating the nitrogen loss reduction beyond Baseline GMP Loss Rates required through Policy 4.4.19 and Table 14(zc). This would be possible as the nitrogen associated with the industrial discharge would be considered as a component of the farm nutrient budgeting exercise.
- 19 However, offsetting the industrial nitrogen reductions with the required reductions beyond Baseline GMP Loss Rates for the farming activity, and therefore avoiding double counting the reduction, is not possible. The nitrogen loss reductions for industrial activities Policy 14.4.28 and 14.4.41 are required regardless of the associated farming reductions beyond Baseline GMP Loss Rates as industrial nitrogen loss is usually just expressed as a number in a consent condition with no explicit link to a particular farm (and associated Baseline GMP Loss Rates). Regardless of the farming system changes made to achieve reductions beyond

⁵ S42A Report, paragraph 12.208, page 379.

Baseline GMP Loss Rates, the industrial nitrogen loss rate, and the reductions required by PC7, remain. While this may not lead directly to the reductions being double counted, this approach provides no flexibility to how reductions will be managed as they must always be made by the industrial activity in order to be factored appropriately into the on-farm nitrogen budgeting exercise.

20 While it may be that the reductions are not double counted when applying the industrial nitrogen loss to the farming nitrogen budget as stated in the s42A report, my opinion is the policy framework surrounding this matter is not sufficiently clear and is unnecessarily restrictive. In the situations described above, the nitrogen loss reduction would always apply to the industrial discharge even if the farming activity could offset this reduction against the required reductions beyond Baseline GMP. This limits the flexibility of the method by linking the reduction to the industrial activity where it may be much more difficult to achieve the necessary reductions (for example due to lack of space to install and run additional treatment systems).

21 From the s42A officer's comments at page 379, it appears that it was never the intention of Policies, 14.4.19, 14.4.28 and 14.4.41 to compound the nitrogen loss reduction requirements for farming and industrial activities. On this basis, my view is Policies 14.4.28 and 14.4.41 should be amended in order to make it clear that in a situation where discharges of nitrogen associated with an industrial or trade process are discharged as part of a farming activity affected by Policy 14.4.19, there is no requirement to reduce nitrogen loss by 30% below current consented rates by 1 January 2035. This makes it clear that the reduction applies at the discharge location (the farm) and avoids confusion as to how the planned reductions are implemented. Suggested policy wording to achieve this is:

Assist in achieving water quality targets in the Rangitata Orton High Nitrogen Concentration Area by requiring, in addition to Policy 14.4.19, point source discharges of nitrogen from industrial or trade waste disposal activities to reduce nitrogen losses by 30% below current consented rates by 1 January 2035 unless the point source discharge is occurring as part of a farming activity subject to stepped nitrogen loss reductions required by 14.4.19.

22 This proposed change as submitted by Synlait, has the potential to reduce costs (in terms of s32(1)(b)(ii)) associated with reducing nitrogen loss rates to levels greater than anticipated by PC7 (if the reductions are double counted) which may involve lowering production of either the industrial process or the farm, or potentially making additional capital investment so as to treat the waste to a higher level to meet the reduction limits. The proposed amendment also increases the flexibility of the method

creating less restrictive plan provisions for no additional environmental costs, thereby improving the efficiency of the plan rules. At the very minimum Synlait's proposed amendment clarifies the intention of the policy thereby improving plan usability.

SUMMARY AND CONCLUSION

23 Synlait's submission sought amendments to PC7 so as to provide for the transfer of water from site to site for industrial purposes without surrendering volume. They also sought amendments or confirmation that industrial wastewater discharged as part of a farming activity is not subject to two separate nitrogen reduction policies.

24 On this basis I have suggested amendments to PC7 that will in my opinion:

24.1 Improve the efficiency and effectiveness of the relevant plan provisions, and

24.2 Better achieve the purpose of the RMA.



Timothy Alastair Deans Ensor

17 July 2020