

**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

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**RESPONSE TO QUESTIONS - TIM ENSOR FOR SYNLAIT MILK  
LIMITED**

**25 November 2020**

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## INTRODUCTION

- 1 My full name is Timothy Alastair Deans Ensor. My employment history, qualifications and experience are set out in my evidence in chief dated 17 July 2020.

## RESPONSE TO QUESTION

### Background

- 2 This response to questions will address a question asked by Commissioner Rob van Voorthuysen in relation to the issue of nutrient reduction double counting identified in the submission of Synlait Milk Limited (Synlait).
- 3 Synlait's submission identified a potential issue with Policy 14.4.28 and Policy 14.4.41 (**industrial N loss policies**) whereby nutrient associated with industrial activities but discharged as part of a farming system would be required to reduce Nitrogen loss as part of the industrial activity and the farming activity. In my evidence in chief, I suggest an amendment to these policies to make it clear that there is no requirement to reduce nitrogen losses from industrial activities where the discharge is occurring as part of a farming activity subject to stepped nitrogen loss reductions required by Policy 14.4.19.
- 4 During the PC7 hearing on Friday 6 November, Commissioner van Voorthuysen drew my attention to a similar matter raised by the submission Fonterra Co-operative Group Limited (Fonterra). In this regard, Commissioner van Voorthuysen asked whether the solution offered by Mr Gerard Willis in his evidence to a conflict identified by Fonterra between the industrial and farming reduction requirements, might provide a solution to the issues raised by Synlait.

### Response

- 5 The solution offered by Mr Willis is to amend Policy 14.4.28<sup>1</sup> to replace the word 'loss' with the word 'load'. I understand from Mr Willis' evidence that one of the key factors influencing this solution is that N 'loss' is effectively capped by the land use consent Fonterra holds for farming, and that applying a loss limit to the industrial discharge has the potential to create conflict with the existing management regime.<sup>2</sup> I understand that Fonterra has full control over the farming activity through which the discharge occurs, and specifying a load limit as Mr Willis proposes, aligns well with the existing nutrient management regime in place through its consents. A reduction in N load by 30% from the dairy factory can be factored directly into the nutrient budgeting for the farm. In addition, my understanding of Fonterra's nutrient management regime is that

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<sup>1</sup> The solution could equally apply to all of the industrial N loss policies

<sup>2</sup> Willis evidence, paragraph 108.

it also involves 'cut and carry' providing opportunity to export nitrogen from the farm, providing some flexibility as to how the required reductions are achieved.

- 6 As discussed in my evidence, this is not the case for Synlait's industrial discharges as the discharge occurs through third party farming activities. Referring to load instead of loss would allow the wastewater received from Synlait to be easily factored into a farms nutrient budget as a fertiliser input. However, it doesn't completely avoid the potential for double counting and as a minimum, limits the flexibility around how reductions are achieved. This is because Synlait would always be required to reduce its N load by 30% (this would appear as a number in any discharge consent) while the farming activity would still be required to make reductions in accordance with Policy 14.4.19. The Policy 14.4.19 reductions could potentially be achieved by factoring in the reduced load if the resource consents associated with the individual farming activities allowed. However, this limits the flexibility of the method by always requiring a reduction in load by the industrial activity rather than allowing the N reduction to be achieved on farm as might be possible in an integrated industrial / farming scenario such as Fonterra's. As Synlait does not hold control over the industrial activity and the farming activity as is the case with Fonterra, this in my view limits the efficiency of the method.

## **SUMMARY AND CONCLUSION**

- 7 The amendment sought by Mr Willis is helpful in that it aligns the terminology used in the policy to the context; load where the discharge is an input to another system, and loss for farming land uses. However, my view is it doesn't solve the issues raised in Synlait's submission and discussed in my evidence. Most significantly, referring to load does not assist in providing flexibility as to how nutrient is managed, and requires any reduction to be undertaken by the industrial activity. While there is potentially still some uncertainty as to the actual extent double counting might occur under PC7, this uncertainty in itself suggests that an amendment to the industrial N loss policies is desirable.
- 8 Consequently, my view is that the amendments suggested in my evidence are still required. They also provide greater clarity and avoid a situation where there may be confusion as to when the two nutrient reduction requirements apply which is one of the aims of Mr Willis solution.
- 9 Referring to load rather than loss in the industrial N loss policies does make it easier to account for industrial wastewater discharges (e.g. whey) as a fertiliser input to any farming nutrient budgeting exercise. On this basis, it could also be a useful amendment to the policy set. This would result in a policy worded as follows:

*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~~ loads 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.*



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Tim Ensor

25 November 2020