

**BEFORE INDEPENDENT HEARING COMMISSIONERS
AT HAMILTON**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of submissions on Proposed Plan
Change 1 to the Waikato Regional Plan

**STATEMENT OF PRIMARY EVIDENCE OF
RICHARD ALLEN FOR FONTERRA CO-OPERATIVE GROUP LTD
(74057)**

**BLOCK 3 HEARINGS
5 JULY 2019**

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1. INTRODUCTION

- 1.1 My full name is Richard Grant Allen.
- 1.2 My qualifications and experience are as set out in my Block 1 evidence.
- 1.3 I was involved on behalf of Fonterra in preparing its submissions and further submissions on Proposed Plan Change 1 (**PC 1**). I also gave evidence at the Block 1 and Block 2 hearings. I am therefore familiar with the provisions of PC 1 to the Waikato Regional Plan and I am authorised by Fonterra to provide this statement on its behalf as a Fonterra representative.

Scope of Evidence

- 1.4 My statement covers:
- (a) FEP effectiveness under the recommended approach.
 - (b) Making the FEP Schedule more certain.
 - (c) Importance of Farm Environment Plans
 - (d) Incorporating Nitrogen Risk Scorecards in to FEPs
- 1.5 I have made comment on the section 42A Report as that report relates to issues that Fonterra identified in its submissions.

2. FEP EFFECTIVENESS UNDER THE RECOMMENDED APPROACH.

- 2.1 The FEP approach as described in the report included within the Section 42A, (*“Proposed Revisions to Schedule 1 to incorporate Good Farming Practice into Farm Environment Plans”* pp52 – 77) represents a very significant shift in focus for PC 1 from the notified plan. It is considered in this report that to incorporate GFP principles into the FEP framework, and to ensure that outcomes consistent with these principles are in some way enforceable, it is necessary to make major structural changes to the PC 1 rule framework.

- 2.2 It is the Fonterra view that there is another option that the Council officers should have considered. That option would be to look to improve the certainty of actions in an FEP through an amended Schedule 1. While Council officers might prefer the "... objective and principle approach" (page 59 of the 42A report), in my experience farmers generally will engage far more readily in a conversation about specific actions to address a clear risk of contaminants reaching water. There is very little clarity of expected outcome for a farmer in the recommended approach. If we want farmers to engage with, and commit to their FEP, the process for developing them needs to be real and meaningful. I am concerned that a focus on "objectives and principles" will see FEPs dismissed as esoteric by many farmers. An opportunity to secure genuine buy in to secure better water quality outcomes through practical, understandable actions on farm will be missed.
- 2.3 The major changes to the rule framework appear to be more focussed on what council staff would prefer to administer, rather than the likely effectiveness of the regulation in changing on-farm practice as efficiently as possible. The oral evidence given by the council's witness Mr Brent Sinclair in Block 2 Hearing was telling. From that evidence it is apparent that the Council does recognise the implementation challenges they will face in the coming years. The example of Variation 6 was used to show how Council might be able to meet statutory requirements and implement an effective consent regime. This discussion between the Commissioners and the Council witness confirmed Fonterra concerns about the recommended PC 1 structural changes.
- 2.4 The Council's witness, Mr Sinclair, considered Variation 6 delivery to be an example of implementation success for WRC. He set out that six and a half years into plan rollout there were 300 (more complex) consents (of 2,600) yet to be issued. He explained that he did not think the Horizons declarations were relevant to the side agreements made by council with consent applicants to effectively disregard statutory timeframes, because the Environment Court declarations were

focused on the RDA rule under the One Plan, while Variation 6 consents are controlled activity consents. He could not give a date when all the consents might be completed. I would note here that it appears the current section 42A position on activity status is that all (other than low intensity farms) should be regulated through an RDA consent, although Mr Sinclair clearly favours a shift to controlled activity status for all land use consents

- 2.5 Significantly, there was no discussion between the Hearing Panel and Mr Sinclair on how effectively the Variation 6 consents are being monitored. From conversations with Fonterra farmers, it would appear that very few farmers with a Variation 6 resource consent have, since lodging their applications in 2013, had any further contact with the regional council, other than receiving regular invoices for consent administration. A few farmers have had a superficial monitoring of their consent as a tag on to an effluent monitoring visit. It appears most farmers have never had current practice assessed against the conditions in the resource consent. In contrast to Mr Sinclair's positive assessment of the Variation 6 implementation programme, many farmers express low confidence in the Council's ability to implement PC 1 because of the inefficiency and ineffectiveness of Variation 6 implementation.
- 2.6 Mr Sinclair pointed out that the "success" of Variation 6 had depended to a large degree on the industry support in getting applications in on time, and in a form that made consent processing relatively simple. The significant difference between the templated Variation 6 consent application and the process to consider relatively complex issues managed by rule 3.11.5.4 (noting that 3.11.5.3 would become irrelevant under the recommended changes) was not touched upon. In terms of efficient and effective regulation Fonterra would not consider Variation 6 implementation a success.
- 2.7 Clearly consent numbers under PC 1 (as notified perhaps 3000, as recommended perhaps 5500) are at a scale greater than required by Variation 6 – or indeed any other regulatory framework around the

country. The use of land for farming consents under PC 1 will necessarily be far more complex than Variation 6. It is not at all clear if consent conditions imposed under Variation 6 have actually been carried out. It is my opinion that the Variation 6 implementation process provides no reasonable basis for anticipating that the Council can efficiently consider the resource consent applications (as would be required under PC 1 if the recommendations in the section 42A report are adopted) and properly monitor those consents in the period between now and 2026.

2.8 While we have significant concerns with the cost of the framework now being promoted by the Council, it is the likely effects on farmer implementation of meaningful actions to address specific risk areas that Fonterra finds most difficult to accept. It is my opinion that the section 42A report is “tilting at windmills”, identifying generally imaginary or overstated risks and then finding entirely impractical solutions to address those (largely non-existent) risks. If the goal of PC 1 is to change farmer behaviour so as to efficiently restore water quality in the Waikato / Waipa catchments, the recommendations make little sense.

2.9 Implementing FEPs and working with thousands of farmers to make on farm change over the next 7 years will be a huge challenge for all. It is our opinion that the focus of the very limited resource (expertise in farm systems and land management) should as much as possible be on developing good FEPs and supporting farmers on an ongoing basis with the implementation challenges that will undoubtedly exist. Using the limited resources available to build a large team of council employed consent processing staff cannot be expected to be an effective or efficient change management approach.

4. MAKING THE FEP SCHEDULE MORE CERTAIN

3.1 Mr Willis in his planning evidence has provided a rule framework and a revised Schedule 1 that would provide a platform for meaningful on farm change with enforceable standards using FEPs as the primary implementation approach. Having a clear set of standards as permitted

activity conditions, with a controlled activity consent pathway to ensure that council has a higher degree of oversight when a standard cannot be met, is a practical and workable approach for managing land use activities at the scale of the PC 1 catchments. It will also mean that Fonterra and others will provide Industry Schemes to support PC 1's implementation and accelerate the uptake of good practice.

- 3.2 Fonterra has provided a set of standards for FEPs (refer evidence of Mr Willis for Fonterra) that we believe could provide the certainty of outcome that the wider community are quite rightly demanding of PC 1. This set of standards and the requirement for a CFEP to consider all sources of contaminants in the FEP, will result in clear expectations for farmers, with risk areas identified and mapped, current good practice documented and clear timebound actions put in place. CFEPs will also be well placed to engage the farmers in identifying opportunities to go well beyond the minimum standards.
- 3.3 The standards Fonterra has proposed come from a variety of sources including our work in developing the Nitrogen Risk Scorecard, the DairyNZ developed GFP guidance document and our engagement with the development of national regulations. We believe the standards proposed are appropriate, practical and will be effective in ensuring a high level of performance by farmers. However, we appreciate that other parties will have an interest in these standards and should the Hearing Panel consider it necessary we would support directed conferencing with other parties to refine them further.
- 3.4 We are very aware that there is a well organised position being relayed to the Hearing Panel that FEP actions should be entirely "tailored" to the particular farm and farmer. Fonterra does not subscribe to this position. It is our strongly held view that there are a significant number of practices on farms - dairy, drystock, horticulture / arable - that can be readily defined as not consistent with good farming practice. A resistance to setting any minimum standards is not, in our view, consistent with a real commitment to change. "Tailored" FEPs should not be used as a smokescreen for inaction on what is clearly just poor farming practice.

4. IMPORTANCE OF FARM ENVIRONMENT PLANS

- 4.1 In my previous evidence for Block 2, I provided Fonterra's position that all farms above 20ha should be required to operate under a FEP. The idea that farms with lower stocking rates are lesser contributors to contaminants reaching water is, in its view, flawed. Lower intensity farms are more often on steeper and less stable soils. These same farms have had very little attention from either the Council or from their industry bodies in driving improved practice. These low intensity farms, in the context of the Vision and Strategy water quality goals and the four contaminants under consideration in PC 1, are not "inherently low risk". These low intensity farms generate low returns per hectare and therefore the contaminant losses are generally much higher relative to their economic contribution.
- 4.2 Fonterra has a strategic goal to have all supplying farms around New Zealand operating under a FEP by 2025. These FEPs will be delivered to an agreed standard (to the regulatory standard where that has been determined) by appropriately qualified advisors and will put in place timebound actions to ensure all farms are operating in a manner consistent with good farming practices (at a minimum). Fonterra developed FEPs will be kept "live" through ongoing monitoring, reporting and support including follow up farm visits at regular intervals.
- 4.3 We note that the drystock industry has a similar goal (although their timeframes for all farms operating under an FEP are shorter than the dairy timeframes). Fonterra believes this commitment from both sectors, assuming the FEPs are produced to a high standard, are well supported with one on one visits, have clear expectations and bottom lines, and are monitored and enforced if required, will result in a transformational change in on farm environmental performance. It is our view that regulation should support and enhance the industry approach, while providing the certainty the community need through enforcement where required.
- 4.4 Fonterra supports the use of FEPs in the Waikato / Waipa catchments as the primary method to identify critical source areas and contaminant

loss risks. We believe there are some opportunities to further clarify the FEP approach detail in PC 1 but the fundamental requirements are sound.

5. INCORPORATING THE NITROGEN RISK SCORECARD IN TO FARM ENVIRONMENT PLANS

- 5.1 Fonterra has previously provided detailed evidence on the Nitrogen Risk Scorecard (NRS) and the role an objective assessment tool might play in the efficient regulation of nutrient management in particular. We have been encouraged to see the widespread support through the Hearings process from technical experts representing a range of stakeholders through the PC1 Hearings process.
- 5.2 From July 2019 Fonterra will be providing all suppliers with an annual NRS report. We will also be using the Scorecard as the primary method to identify nitrogen management risks (and to put in place actions to address those risks) for all FEPs we deliver around the country.
- 5.3 It is our position that for PC 1 this NRS approach should be included for all FEPs. Compared to a reliance on Overseer for considering nutrient risks, the NRS is transparent and logical for farmers. We believe it will drive much greater engagement on nutrient issues, and therefore much greater buy in to introducing meaningful change, from farmers. A Scorecard relevant to each sector's risks could readily be developed and administered through the regional council. There is no requirement for manual data consideration or data entry, the whole process could be simply automated and introduced (as Fonterra has demonstrated with a nationwide rollout of a working tool and reporting approach within a year of the initial consideration of the concept).
- 5.4 Fonterra would support a requirement to consider the purchased nitrogen surplus* for each property in the FEP as a useful metric to understand how efficiently nitrogen inputs are being turned in to productive outputs. This is a simple calculation (not a modelled number) that is an output from the Nitrogen Risk Scorecard, but can also be readily calculated from farm data using a simple spreadsheet calculation tool. (ie the metric can still be used without the NRS). Purchased surplus is used widely around the world as

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an easily understood measure of resource use efficiency. In evidence for Fonterra, Mr Willis has included a requirement to produce such a metric (and to farm within a threshold for this metric for a permitted activity) in the redrafted Schedule 1.

*Purchased Nitrogen Surplus:

N in fertiliser plus N in imported feed minus N in productive outputs =
Purchased N Surplus.



Richard Allen