

Before the Independent Hearings Panel  
at Dunedin

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*under:* the Resource Management Act 1991

*in the matter of:* Submissions and further submissions in relation to the  
proposed Otago Regional Policy Statement

*and:* **Fonterra Limited**  
*Submitter 233*

Statement of evidence of Susannah Vrena Tait

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Dated: 23 November 2022

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## STATEMENT OF EVIDENCE OF SUSANNAH VRENA TAIT

### 1. INTRODUCTION

- 1.1 My name is Susannah Vrena Tait. I am a Partner at Planz Consultants Limited. I hold Bachelor of Science and Master of Applied Science degrees. I am a full Member of the New Zealand Planning Institute. I have been employed in the practice of planning and resource management for approximately 20 years both in New Zealand and Australia. An overview of my qualifications and experience are set out in **Appendix A** of my evidence.
- 1.2 I am familiar with the submissions made by Fonterra Limited (**Fonterra**) (submitter number 00233) on the Proposed Otago Regional Policy Statement 2021 (**PORPS**) and the issues raised in those submissions (although I was not involved in the preparation of the primary or further submissions). I have been authorised by Fonterra to provide evidence on their behalf.
- 1.3 I note that two of my colleagues at Planz, Ms Carmen Taylor and Mr Matt Bonis, are also presenting planning evidence at this hearing on behalf of Ravensdown Limited (**Ravensdown**) and Christchurch International Airport Limited respectively. Having reviewed their (draft) evidence, I am comfortable that there are no conflicts. Where appropriate and within the scope of Fonterra's submissions, I have liaised with Ms Taylor to achieve agreement on provisions (given that Fonterra and Ravensdown share many of the same submission points).
- 1.4 In preparing my evidence I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2014. I have complied with the Code of Conduct in preparing this evidence and I agree to comply with it while giving oral evidence before the Hearings Panel. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

### 2. SCOPE OF EVIDENCE

- 2.1 In preparing my evidence I have read the Otago Regional Council (**Council**) s32 Evaluation Report, and the following s42A reports and accompanying supplementary evidence prepared on behalf of the Council:
- a. Chapter 1: Introduction and general themes, prepared by Ms Felicity Boyd
  - b. Brief of Supplementary Evidence: Introduction and general themes, prepared by Felicity Boyd
  - c. Chapter 2: Submissions on Part 1 – Introduction and general provisions, prepared by Ms Lisa Hawkins

- d. Brief of Supplementary Evidence: Part One – Introduction and general provisions, prepared by Ms Lisa Hawkins
  - e. Chapter 3: Definitions and abbreviations, prepared by Ms Lisa Hawkins
  - f. Brief of Supplementary Evidence: Chapter 3: Definitions and abbreviations, prepared by Ms Lisa Hawkins
  - g. Chapter 5: Submissions on Part 2 – Resource management overview, prepared by Ms Jacqui Todd and Mr James Adams
  - h. Brief of Supplementary Evidence: SRMR – Significant Resource Management Issues for the Region, prepared by Ms Jacqueline Todd
  - i. Chapter 6: IM – Integrated management, prepared by Ms Felicity Boyd
  - j. Brief of Supplementary Evidence: IM – Integrated management, prepared by Ms Felicity Boyd
  - k. Chapter 7: AIR – Air, prepared by Ms Hannah Goslin
  - l. Brief of Supplementary Evidence: AIR – Air, prepared by Ms Hannah Goslin
  - m. Chapter 9: LF – Land and freshwater, prepared by Ms Felicity Boyd
  - n. Brief of Supplementary Evidence: LF – Land and freshwater, prepared Ms by Felicity Boyd
  - o. Chapter 11: Energy, Infrastructure and Transport, prepared by Mr Peter Stafford
  - p. Brief of Supplementary Evidence: Energy, Infrastructure and Transport, prepared by Mr Peter Stafford
  - q. Chapter 15: UFD – Urban form and development, prepared by Mr Kyle Balderston
  - r. Brief of Supplementary Evidence: UFD – Urban form and development, prepared by Ms Elizabeth White
- 2.2 Throughout my evidence, I collectively refer to the s42A report authors as ‘the reporting officer’.
- 2.3 I have also read, and I am reliant on, the economic evidence of Mr Mike Copeland and the corporate statement of Ms Suzanne O’Rourke both prepared on behalf of Fonterra.
- 2.4 In my evidence, I set out a summary of my conclusions (**Section 3**) before moving on to examine Fonterra’s individual submission points on:
- a. ‘Regionally Significant Industry’ (**Section 4** of my evidence).

- b. the Purpose statement (**Section 5** of my evidence).
  - c. a number of Definitions, including proposed definitions for 'effect management hierarchy', 'regionally significant infrastructure', 'sensitive activity' and 'Te Mana o te Wai'; and new definitions for 'minimise', 'natural environment', 'precautionary approach', 'regionally significant industry', 'restore', 'reverse sensitivity', 'rural industry', 'stormwater system operator' and 'wastewater system operator' (**Section 6** of my evidence).
  - d. provisions in the SRMR chapter, including SRMR-I4, -I10 and -I11 (**Section 7** of my evidence).
  - e. provisions in the IM chapter, including IM-O1 and -O3, and IM-P2, -P4, -P6, -P13 and -P14, and IM-M1, -M4 and -M5 (**Section 8** of my evidence).
  - f. provisions in the AIR chapter, including AIR-O1 and -O2, and AIR-P1, -P2, -P3, -P4, -P5 and -P6, and AIR-M2 and -M3, along with a new policy (**Section 9** of my evidence).
  - g. provisions in the LF chapter, including LF-WAI-P3 and -P4, LF-FW-P13, LF-LS-P19 and LF-LS-M14, along with one new method, two new anticipated environmental results, and a new vision (LF-VM) (**Section 10** of my evidence).
  - h. provision EIT-EN-P5 in the EIT chapter (**Section 11** of my evidence).
  - i. provisions in the UFD chapter, including UFD-O2 and -O4, UFD-P1, -P2, -P4, -P6, -P7, -P8 and UFD-M2 (**Section 12** of my evidence).
- 2.5 For ease of reference, my recommended amendments to provisions are shown in red underline and ~~red strikethrough~~.
- 2.6 As the freshwater provisions are now subject to a separate process, my evidence is limited to only those non-freshwater provisions that Fonterra made submissions and further submissions on.

### **3. EXECUTIVE SUMMARY**

- 3.1 I consider it appropriate for the PORPS to provide for 'regionally significant industry', specifically a new definition and a suite of provisions that primarily focus on protecting regionally significant industry from inappropriate urban encroachment. The concept of protecting natural and physical resources and metaphysical ideas in a regulatory context is widely accepted; and for industry that has regionally significant social, economic or cultural benefits, I consider it appropriate for these activities to be recognised in a similar vein. I consider that Fonterra's Stirling and Mosgiel sites qualify as regionally significant industry.

- 3.2 I consider that the Purpose sets the scene for the overall approach of the PORPS and amendments are required to better reflect the purpose of regional policy statements in the context of the RMA.
- 3.3 I consider changes are needed to the proposed definitions for 'effect management hierarchy', 'sensitive activity' and 'Te Mana o te Wai'. I also consider that new definitions are needed for 'regionally significant industry', 'reverse sensitivity', 'rural industry' and submissions seeking new definitions for 'minimise', 'natural environment', 'precautionary approach', 'restore', 'stormwater system operator' and 'wastewater system operator' should be rejected.
- 3.4 SRMR-I4, does not appropriately address reverse sensitivity effects on rural industry and I consider amendments are required to address this shortcoming in the Issue statement. I consider the proposed SRMR-I10 and -I11 (and SRMR-I6, although this will be dealt with under the freshwater processes) overlook the potentially substantial impact of restricted resource use on activities and sectors that rely on natural resources. I consider that this is a significant issue that may affect the social and economic wellbeing of the region.
- 3.5 I support the proposed or recommended amendments to wording of IM-O3, -P4, -P6, -P13, M1 and M4. I consider that amendments are needed to IM-O1 to better reflect the purpose of the RMA. The current wording of IM-P1 (specifically the incorporation of IM-P2) is inappropriate; this seeks to prioritise matters in decision-making that is inconsistent with the purpose of the Act and national direction. I consider it appropriate for IM-P14 to provide for the assessment and adjustment of environmental limits in consultation with resource users. Lastly, IM-M5 should provide for water storage (in response to climate change) if this concept is not retained in LF-FW-M6(6).
- 3.6 Overall, I disagree with the reporting officer's approach to the provisions in the AIR chapter. While I agree with the minor amendments to AIR-O1 and AIR-P5, other provisions require substantial amendment. AIR-O2 should retain scope for a suitable policy response to the range of discharges to air (in AIR-P3, -P4, -P5 and -P6). I consider that amendments are needed to AIR-P1 and -P2 to appropriately address ambient air quality having regard to the National Environmental Standards for Air Quality 2004 (**NESAQ**). I support a new policy (proposed by Horticulture NZ) to avoid locating incompatible activities in close proximity to consented or permitted discharges to air. I consider that amendments are required to AIR-M2 and -M3 to implement the changes I have sought to the AIR policy framework.
- 3.7 I disagree with the reporting officer's recommendations to reject Fonterra's submissions in respect of LF-WAI-P3 and -P4 and LF-FW-P13. I do not consider that (as proposed / amended) these provisions appropriately account for effects on freshwater (LF-WAI-P3), the plan making or decision-making processes prescribed by the RMA (LF-WAI-P4) or appropriately apply the National Objectives Framework (**NOF**) prescribed by the National Policy Statement for Freshwater Management 2020 (**NPSFM**). I support the amended wording of LF-LS-P19 provided the amendments I have recommended to UFD\_O4 and UFD-P7 are adopted (in respect of highly productive land). I support the reporting officer's recommendation in respect of LF-LS-M14, two new anticipated

environmental results and a new LF-VM vision. I consider that a new method requiring greater involvement of the Council in respect of Te Mana o te Wai is appropriate.

- 3.8 I do not agree with the recommendation of the reporting officer to reject Fonterra's submission in respect of EIT-EN-P5 in the EIT chapter. I consider that some provision for non-renewable energy generation should be made (although restricted).
- 3.9 I consider that a number of amendments are required to the UFD chapter to reflect that the chapter is intended to manage both urban and rural environments, avoid reverse sensitivity effects and provide for regionally significant industry such that it is not constrained by urban encroachment.

#### **4. REGIONALLY SIGNIFICANT INDUSTRY**

##### **Introduction**

- 4.1 Fonterra has two key sites in the Otago region – the Stirling manufacturing site and the Mosgiel distribution site – that assist with the manufacturing and distribution of milk and milk products. These sites have been described at length in the evidence of Ms O'Rourke and Mr Copeland, but I note the following key points:
- a. There are 393 Fonterra shareholding dairy farms in the Otago region<sup>1</sup>. In the 2021 / 2022 dairy season, the Otago region's dairy farms produced a total of 92.5 million kgs of milk solids and the Stirling site payments to shareholder milk suppliers directly contributed \$360 million to the regional economy<sup>2</sup>.
  - b. Stirling is the largest cheese producing site in Australasia<sup>3</sup> and employs 110 staff<sup>4</sup>. Stirling processes up to 1.8 million litres of milk per day during the dairy season and around 400 million litres per annum<sup>5</sup>.
  - c. Mosgiel comprises a 45,000 tonne dry store building and 17,000 tonne cool store building and employs 21 staff<sup>6</sup>. Mosgiel is Fonterra's only distribution centre in the South Island<sup>7</sup>.
  - d. The direct economic benefit of Stirling is \$10M per annum in wages and salaries and an additional \$70M spend on goods and services – 35%

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<sup>1</sup> Statement of Evidence, Ms Suzanne O'Rourke, paragraph 23

<sup>2</sup> Statement of Evidence, Ms Suzanne O'Rourke, paragraph 24

<sup>3</sup> Statement of Evidence, Ms Suzanne O'Rourke, paragraph 23

<sup>4</sup> Statement of Evidence, Ms Suzanne O'Rourke, paragraph 26

<sup>5</sup> Statement of Evidence, Mr Mike Copeland, paragraph 12

<sup>6</sup> Statement of Evidence, Mr Mike Copeland, paragraph 47

<sup>7</sup> Statement of Evidence, Ms Suzanne O'Rourke, map

(\$24.5M) with local Clutha District businesses, 35% with other Otago businesses (i.e. a total of 70% or \$49M) and 30% (\$21M) with other New Zealand businesses<sup>8</sup>.

- e. The direct economic benefit of Mosgiel is \$1.6M in wages and salaries and an additional \$1.9M spend on goods and services – 84% (\$1.6M) with local Otago region businesses, most of which are based in Dunedin City<sup>9</sup>.
- f. The total direct, plus indirect, Otago regional impacts of the Stirling and Mosgiel are 263 additional jobs, \$23.2 million per annum additional wages and salaries and \$101.8 million per annum additional expenditure<sup>10</sup>.

## Submission

- 4.2 Fonterra is seeking to have 'regionally significant industry' defined and recognised in the PORPS, which would apply to their two sites. The specific definition proposed by Fonterra, in its submission, was:

*means an economic activity based on the use of natural and physical resources in the region which has been shown to have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits.*

- 4.3 In addition, Fonterra sought to include several provisions to embed 'regionally significant industry' into the policy framework, including SRMR-I4, SRMR-I6, a new IM objective and UFD-P4, thereby recognising the importance of the regionally significant industry to the region.

- 4.4 The reporting officer has recommended that the suite of amendments relating to regionally significant industry be rejected<sup>11</sup> stating:

*'In relation to the new definition sought by Fonterra, it is unclear how an activity would be determined to have "benefits that are significant at a regional or national scale" and I am concerned that the lack of clarity about this requirement could allow for inclusion of activities based only on economic benefits, such as contribution to regional or national GDP. In my opinion, the suite of amendment sought by Fonterra would elevate "regionally significant industry" to the same category as "regionally significant infrastructure". In some instances, regionally significant infrastructure is provided an alternative pathway for managing adverse effects in order to recognise their importance to the well-being of people and communities. While I acknowledge that some industries also contribute to well-being by way of their social and economic benefits, I do not consider that these two types of activities are congruent. At a high level, I do not recommend accepting this suite of amendments as a policy package'.*

- 4.5 Within the scope of the submission, I have proposed revisions to the policy package to ensure that the provisions are channelled into the appropriate

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<sup>8</sup> Statement of Evidence, Mr Mike Copeland, paragraph 42

<sup>9</sup> Evidence in Chief, Mr Mike Copeland, paragraph 47

<sup>10</sup> Evidence in Chief, Mr Mike Copeland, paragraph 50

<sup>11</sup> S42A Report, Introduction and general themes, paragraph 120

chapters, most notably the UFD chapter. I also propose an amendment to the definition, to specifically include Stirling and Mosgiel as regionally significant industry and remove any ambiguity. The relevant provisions are:

- a. A definition for inclusion in the Interpretation chapter
- b. SRMR-I4
- c. UFD-O2, -O4, -P3, -P4, -P7, -P8 and -M2

4.6 The key focus of the proposed provisions is to safeguard the operation and development of regionally significant industry particularly from urban intensification, urban expansion and rural lifestyle development.

### **What is regionally significant industry?**

4.7 I propose that 'regionally significant industry' is defined as:

*means an economic activity based on the use of natural and physical resources in the region which has been shown to have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits. Regionally significant industry includes:*

- Fonterra's Stirling manufacturing site at Mount Wallace Road, Stirling
- Fonterra's Mosgiel distribution site at 222 Dukes Road North, Mosgiel
- [new]

4.8 The core part of this definition derives from the Waikato Regional Policy Statement where the definition has had effect since 2016.

4.9 My recommendation to specify sites within the definition informs plan users of the sites that 'qualify' as regionally significant industry and to provide confidence to a business that they can rely on the relevant PORPS (and regional and district plan) provisions with certainty. Fonterra, as proponents of the concept, consider that their Stirling and Mosgiel sites are regionally significant industry and my arguments for this are set out below. It will obviously be incumbent on other businesses to form their own arguments should they wish to pursue regionally significant industry status, but I envisage that this concept would have wider application in Otago than just Fonterra.

### **Why should it be recognised?**

4.10 The idea of recognising or 'elevating' the status of significant contributors to New Zealand's social, economic or cultural wellbeing is not new and includes physical resources (heritage buildings and structures, infrastructure and 'urban environments'), natural resources (landscapes, waterbodies, surfbreaks, indigenous vegetation and habitat), and metaphysical concepts (customary rights, access). I set out my arguments below as to why regionally significant industry should be recognised, and more specifically why Fonterra's sites qualify.



4.11 I consider that s5 of the Resource Management Act 1991 (**RMA**) provides a steer on what could be considered significant. The purpose of the RMA<sup>12</sup> 'is to promote the sustainable management of natural and physical resources', which are defined in the RMA as<sup>13</sup>:

*natural and physical resources includes land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures [emphasis added]*

4.12 With respect to regionally significant industry, the key aspect of the RMA definition is 'and all structures'. Having reflected on this definition, I am of the opinion that, the RMA was very intentional with this wording as it conveys the idea that, once constructed, a structure has significance in some way, shape or form. I consider that the RMA definition of physical resources extends to 'all structures' as a way to recognise that considerable investment (time, energy, resources and money) has gone into constructing a structure and that none of this should be wasted.

4.13 However, some structures clearly require more investment than others, and I consider that is a reasonable proxy for significance (although I acknowledge that this argument probably doesn't hold true for heritage structures in many cases). The obvious examples of large scale, 'structures' are our cities and our infrastructure, which in both cases are afforded considerable protection through our resource management regulatory frameworks, including:

- The National Policy Statement for Urban Development 2020 (NPSUD),
- The National Policy Statement for Renewable Energy Generation 2011 (NPSREG),
- The National Policy Statement on Electricity Transmission 2008,
- The National Environmental Standards for Telecommunication Facilities 2016,
- The National Environmental Standards for Electricity Transmission Activities 2009
- Zoning, objective, policy and rule frameworks (e.g centres hierarchy policies)

4.14 I consider that the same recognition should hold true for regionally significant industry.

4.15 I also consider that our resource management system is ripe with examples of other sectors being afforded a regulatory 'leg-up', due in some cases to their

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<sup>12</sup> Resource Management Act, s5

significant economic contribution to the economy. Two particularly relevant examples include:

a. National Environmental Standards for Plantation Forestry 2018 (**NESPF**)

The s32 report for the NESPF states<sup>14</sup> [emphasis added]:

*'Plantation forestry is a nationally important industry for New Zealand that faces significant uncertainty as a result of unwarranted variation in Resource Management Act 1991 (RMA) plan provisions across the country. This creates significant operational and regulatory uncertainty for the forestry industry and can lead to uncertain and inconsistent environmental outcomes'.*

b. National Environmental Standards for Marine Aquaculture 2020 (**NESMA**)

The Ministry for Primary Industries website states<sup>15</sup> [emphasis added]:

*'Marine aquaculture contributes significantly to regional development. Many marine farm consents will expire between 2020 and 2025.*

*Marine aquaculture is managed under the RMA, and the rules for considering replacement consent applications vary between regions. This creates regulatory uncertainty. There is also a risk that environmental impact assessments may not always consider the same things.*

The NES-MA were established to:

- increase regulatory consistency and certainty
- ensure environmental effects are appropriately managed
- increase industry confidence to promote investment'.

4.16 I note that the dairy sector has an export value of \$19B<sup>16</sup>, the plantation forestry section has an export value of ~\$6.5B<sup>17</sup> and the marine aquaculture sector has an export value of <\$1B<sup>18</sup>.

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<sup>14</sup> <https://www.mpi.govt.nz/dmsdocument/19400-Proposed-National-Environmental-Standard-for-Plantation-Forestry-Section-32-Evaluation>

<sup>15</sup> <https://www.mpi.govt.nz/fishing-aquaculture/aquaculture-fish-and-shellfish-farming/national-environmental-standards-for-marine-aquaculture/>

<sup>16</sup> <https://www.mpi.govt.nz/export/food/dairy/>

<sup>17</sup> [https://www.mpi.govt.nz/forestry/forest-industry-and-workforce/forestry-wood-processing-data/#:~:text=1.6%25%20of%20New%20Zealand's%20GDP%20\(Gross%20Domestic%20Product\)](https://www.mpi.govt.nz/forestry/forest-industry-and-workforce/forestry-wood-processing-data/#:~:text=1.6%25%20of%20New%20Zealand's%20GDP%20(Gross%20Domestic%20Product))

<sup>18</sup> <https://www.mpi.govt.nz/dmsdocument/15895-The-Governments-Aquaculture-Strategy-to-2025>

4.17 Lastly, regionally significant industry typically has very specific operational<sup>19</sup> and functional needs<sup>20</sup> that cannot be readily replicated (and certainly once established they are not easily relocated). I consider that recognition of regionally significant industry will safeguard those businesses from having their operational and functional needs compromised, which if left unmanaged can lead to closure or constraints on the business resulting in clear economic and social impacts.

#### **Why should Fonterra's sites be recognised as regionally significant industry**

4.18 The criticality of maintaining capacity at Stirling and Mosgiel plays out in two ways:

4.19 Firstly, the industry is governed by the Dairy Industry Restructuring Act 2001 (**DIRA**). In her evidence, Ms O'Rourke states<sup>21</sup>:

*'The DIRA, amongst other things, requires Fonterra to:*

- a. Pick up and pay for milk from farmers who hold shares in Fonterra;*
- b. Accept all applications to become a shareholding farmer; and*
- c. Accept all applications to increase the volume of milk supplied by a shareholding farmer.*

*Accordingly, as milk supply grows through either increased production at an existing farm, or through the conversion of other forms of agriculture to dairy, Fonterra is obliged to collect, pay for and process that milk, if an application is made to it to do so...*

4.20 I consider that this obligation highlights the critical role that Stirling plays in the dairy supply chain for the region. Stirling must accept milk; they must therefore have the capacity to do so. A drop in operating capacity would mean that Fonterra is unable to meet its obligations and an inability to accept milk would likely result in significant adverse environmental effects as milk is dumped at farms.

4.21 Secondly, is that milk, the raw product that Fonterra receives daily at its manufacturing sites, is perishable in nature, therefore the processing element is time critical. Stirling needs 'peak season' capacity to ensure that processing of milk commences immediately upon its arrival at site, which includes receiving milk from the North Island to assist with its peak season<sup>22</sup>. It is untenable (and

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<sup>19</sup> means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints, as defined by the National Planning Standards

<sup>20</sup> means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment, as defined by the National Planning Standards

<sup>21</sup> Statement of Evidence, Ms Suzanne O'Rourke, paragraphs 45, 46

<sup>22</sup> Statement of Evidence, Ms Suzanne O'Rourke, paragraph 50

potentially environmentally damaging) that milk would arrive at site and not be able to be processed. This would represent a significant failing on Fonterra's part if this were to occur.

- 4.22 Fonterra has very specific operational and functional needs with respect to its processing and distribution sites. Stirling (as with Fonterra's other manufacturing sites) is desirable due to its proximity to farms, but critically also separation from sensitive receivers. As Fonterra's only distribution centre in the South Island, Mosgiel is strategically critical in the regional, South Island and global supply chain. As noted in Ms O'Rourke's evidence<sup>23</sup>, *'the South Island sites are a mix of small and large sites and include some of the largest Dairy Manufacturing sites in the world at Clandeboye, Edendale and Darfield'*. Mosgiel's strategic position on the South Island Main Trunk Line means that rail access to Port Chalmers results in substantial reductions in truck movements (with a consequential reduction in road wear, fuel use and greenhouse gas emissions)<sup>24</sup>. Fonterra's investment in these sites is substantial, with the replacement value for Stirling estimated at \$235M, and at Mosgiel estimated at \$121M, so relocating these activities is just not feasible.
- 4.23 The purpose of the RMA is to enable people and their communities to provide for their social, economic and cultural wellbeing. The proposed definition for regionally significant industry therefore leans into this requiring a social, economic or cultural benefit of national or regional scale. Relying on the evidence of Mr Copeland, I set out the regionally significant economic benefits of the Fonterra sites.
- 4.24 Mr Copeland has set out, at length, the economic benefits of Fonterra's presence in Otago, concluding that<sup>25</sup> *'the total direct plus indirect Otago regional impacts [of Fonterra's presence] are 263 additional jobs, \$23.2 million per annum additional wages and salaries and \$101.8 million per annum additional expenditure*. Mr Copeland goes on to say:

*The data and analysis in the preceding sections of my evidence highlight the economic significance of the agricultural and agricultural processing industry sectors and in particular Fonterra's operations at its Stirling and Mosgiel sites at both a district and regional level. Significant amounts of direct and indirect employment, incomes and expenditure are associated with each of the sites. Recently during the covid pandemic, the importance of the primary sector and the related primary product processing sector was highlighted as international and domestic tourism faced unprecedented headwinds. In particular the situation underscored the dangers of "New Zealand Inc" and the local district and regional economies being overly reliant on tourism as the sole economic driver. The Stirling and Mosgiel sites are economically significant in both the provision of economic activity within the local district and regional economies and providing much needed economic diversity.*

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<sup>23</sup> Statement of Evidence, Ms Suzanne O'Rourke, paragraph 17

<sup>24</sup> Statement of Evidence, Ms Suzanne O'Rourke, paragraph 39

<sup>25</sup> Statement of Evidence, Mr Mike Copeland, paragraph 50

- 4.25 While I do not consider the social benefits derived from Fonterra's operations necessarily amount to regional significance, Mr Copeland describes a range of social benefits that are likely being experienced in the Otago region as a result of Fonterra's presence, specifically<sup>26</sup>:

*'Increased economies of scale: Businesses and public sector agencies are able to provide increased amounts of outputs with lower unit costs, hence increasing profitability or lowering prices;*

*Increased competition: Increases in the demand for goods and services allow a greater number of providers of goods and services to enter markets and there are efficiency benefits from increased levels of competition;*

*Reduced unemployment and underemployment of resources: To the extent resources (including labour) would be otherwise unemployed or underemployed, increases in economic activity can bring efficiency benefits when there is a reduction in unemployment and underemployment. The extent of such gains is of course a function of the extent of underutilized resources at the time and the match of resource requirements of a project and those resources unemployed or underemployed; and*

*Increased quality of central government provided services: Sometimes the quality of services provided by central government such as education and health care are a function of population levels and the quality of such services in a community can be increased if increased economic activity maintains or enhances population levels'.*

- 4.26 Overall, I consider that the obligations on Fonterra embedded in DIRA and the perishable nature of milk highlight the critical need to maintain capacity in the manufacturing supply chain. Fonterra's operational and functional needs are met at these sites and cannot be readily replicated (and certainly not without great expense). The evidence of Mr Copeland confirms that economic significance of Fonterra's operations to the region, the importance of maintaining market diversity to the region and some likely social benefits derived as a result of Fonterra's significant operations in the region.

#### **Why does it need to be recognised?**

- 4.27 Urban intensification, urban expansion and urban encroachment from unplanned residential development, along with the risk of reverse sensitivity effects, are significant ongoing concerns for Fonterra. These external factors increase the cost of operating (responding to complaints), inadvertently tighten the environmental limits within which Fonterra must operate (notably discharges to air) and have the potential to restrict the operating capacity of its manufacturing sites.
- 4.28 Fonterra has requested that regionally significant industry be recognised in the PORPS as a means of providing a level of protection for their operations within the region. I consider that such an approach, along with suitable provisions in relation to reverse sensitivity effects, is an appropriate planning response. I

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<sup>26</sup> Statement of Evidence, Mr Mike Copeland, paragraphs 52.1 – 52.4

think most notable is that Fonterra are not seeking these changes to 'get ahead', it does not give them a substantial economic boost or prioritise them for resource use, it does not 'excuse' the effects of their operations (as is the case with regionally significant infrastructure), rather it is a very reasonable request to protect their assets (ultimately being the assets of Fonterra's shareholder farmers) from urban encroachment.

### **Response to reporting officer's comments**

- 4.29 In relation to Fonterra's submission seeking a definition for regionally significant infrastructure, the reporting officer stated:

*'In relation to the new definition sought by Fonterra, it is unclear how an activity would be determined to have "benefits that are significant at a regional or national scale" and I am concerned that the lack of clarity about this requirement could allow for inclusion of activities based only on economic benefits, such as contribution to regional or national GDP. In my opinion, the suite of amendment sought by Fonterra would elevate "regionally significant industry" to the same category as "regionally significant infrastructure". In some instances, regionally significant infrastructure is provided an alternative pathway for managing adverse effects in order to recognise their importance to the well-being of people and communities. While I acknowledge that some industries also contribute to well-being by way of their social and economic benefits, I do not consider that these two types of activities are congruent. At a high level, I do not recommend accepting this suite of amendments as a policy package.'*

- 4.30 Despite the extensive explanation in the preceding paragraphs, I need to respond directly to the reporting officer's comments.
- 4.31 Firstly, as with any assessment of benefits and effects, it would be carried out by suitably qualified experts and a decision reached in consultation with the relevant territorial authority. These decisions may even be challenged through the Court (by declaration or as a matter of proceedings associated with resource consent applications or Plan Changes). Determinations on planning frameworks are made every day, I see no reason why this particular determination would be any different.
- 4.32 As I have already canvassed, recognition of sectors and activities in our regulatory framework, due in part to their economic contribution, is not new to New Zealand. Further, I do not consider that economic benefits can be entirely detached for social wellbeing. Mr Copeland has set out a number of consequential social benefits derived from the presence of significant industry.
- 4.33 Lastly, I do not deny that a regionally significant industry status 'elevates' the status of qualifying businesses to some degree. This is the very point of it. But this is not done without consideration and without benefit. Secondly, I do not consider, and I think it would be disingenuous to suggest, that regionally significant industry is on par with regionally significant infrastructure. For this reason, I have not recommended that the objective originally proposed in submissions be pursued. I consider the two concepts exist for similar reasons but have distinctly different benefits for the region.

- 4.34 I therefore disagree with the reporting officer and consider that the regionally significant industry concept be accepted by incorporating a suitable definition and provisions (by way of amendment to SRMR-I4, UFD-O2, -O4, -P3, -P4, -P7, -P8 and -M2) into the PORPS.

## 5. PURPOSE STATEMENT

- 5.1 Albeit brief, the Purpose statement should confirm the tone for the PORPS. As proposed, the Purpose recognises that significant challenges (both entrenched and emerging) must be addressed while enabling the community to flourish. The Purpose also recognises that the integrated management of Otago's natural and physical resources is required (achieved by '*...protection, restoration, enhancement, and use...*'), but seeks to 'resolve' the identified issues.
- 5.2 Fonterra made a submission on the Purpose seeking that 'planning for wellbeing' be better articulated (and consequential amendments made to the remainder of the PORPS).
- 5.3 I support the wording of paragraph 1 of the Purpose as it very concisely captures the good and the bad – the reality - of sustainable management for Otago.
- 5.4 I generally support paragraph 2 as proposed (although note that it can be combined with paragraph 3 as I discuss below). However, I consider that the Purpose should be amended to adopt 'use, development and protection' (as per s5 of the **RMA**) rather than 'protection, restoration, enhancement, and use' (as proposed). I consider that, particularly in the context of the NPSFM, 'protection' encompasses restoration and enhancement (for example protecting the '*mauri of the wai*'<sup>27</sup> will be achieved through restoration and enhancement). Further, I do not support the reporting officer's recommended approach for incorporating the concept of 'wellbeing' as this is inconsistent with the purpose of the RMA, and I consider that 'wellbeing' should be provided for in the Purpose as I have proposed below.
- 5.5 I disagree with the second sentence in paragraph 3 of the Purpose that states: '*The ORPS sets out objectives, policies, and methods to resolve, over time, the identified issues as effectively and efficiently as possible*'.
- 5.6 As directed by the RMA<sup>28</sup>, '*The purpose of a regional policy statement is to achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region*'. As such, the purpose of the PORPS is not to 'resolve' the identified issues, rather the purpose is to achieve the purpose of the RMA by identifying the issues and developing a framework for the integrated management of the region's natural and physical resources. I acknowledge there is, and should be, a clear relationship between the issues and the policies, but I do not consider that that relationship should be focussed on resolution of the issues, rather the focus

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<sup>27</sup> National Policy Statement for Freshwater 2020, Clause 1.3(1)

<sup>28</sup> Resource Management Act 1991, s59

should be on achieving sustainable management as set out in the purpose of the RMA.

5.7 I consider that the PORPS intention to 'resolve' the significant issues facing the region is a fundamental deviation from its mandated purpose which has significantly affected the drafting of the PORPS, whereby the document moves from a sustainable management / enablement focus to a protectionist / prevention focus.

5.8 I consider that the Purpose should be amended as follows:

*As a community, we in Otago are moving into an age that requires solutions to both entrenched legacy issues and significant emerging issues in order to promote positive sustainable change while also enabling the Otago community to flourish, and to enjoy all that the region has to offer.*

*The Otago Regional Policy Statement (ORPS) identifies the significant issues facing Otago's environment, historic heritage, economy, recreational opportunities and communities and provides a policy framework that aims to achieve long term environmental sustainability by integrating the use, development and protection ~~restoration, enhancement, and use~~ of Otago's natural and physical resources to provide for the wellbeing of the Otago people and communities. The ORPS ~~also~~ promotes a thriving and healthy natural environment as being vital to sustaining our wellbeing.*

~~*The ORPS responds to identified significant regional values and resource management issues relating to Otago's environment, historic heritage, economy, recreational opportunities and communities. The ORPS sets out objectives, policies, and methods to resolve, over time, the identified issues as effectively and efficiently as possible. The ORPS gives effect to the statutory requirements set out in the Resource Management Act 1991 (RMA 1991), as well as relevant national direction instruments and iwi authority planning documents. Regional and district plans must give effect to the ORPS.*~~

## 6. DEFINITIONS

### **Effects management hierarchy**

6.1 Fonterra<sup>29</sup> made a further submission on Meridian Energy Limited's (**Meridian**) submission<sup>30</sup> seeking to amend the definition of 'effects management hierarchy'. The reporting officer provides no specific recommendation on the submission of Meridian. But does make a recommendation to differentiate the definition for 'effects management hierarchy' in relation to natural wetlands and rivers and in relation to indigenous biodiversity (which themselves will be set out in detail in LF-FW-P13A and ECO-P6 respectively). I support this recommendation, but I

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<sup>29</sup> Further submission FS00233.010

<sup>30</sup> Submission 00306.001



consider that the general definition proposed by the reporting officer<sup>31</sup> (which simply states: *Effects management hierarchy means an approach to managing the adverse effects of an activity*) is inadequate to capture the sequential steps for managing effects on the natural and physical environment. I therefore consider a more fulsome 'general' definition is more appropriate.

- 6.2 I generally support the definition proposed by Meridian but having reviewed the submissions of Otago Water Resource Users Group<sup>32</sup>, Aurora Energy<sup>33</sup>, PowerNet Limited<sup>34</sup> and Network Waitaki Limited<sup>35</sup>, I agree that a broader application of the effects management hierarchy to all s6 and s7 natural and physical resources not covered by other definitions of 'effect management hierarchy' is appropriate. I therefore support the following general definition for 'effects management hierarchy' with amendments to better align with the hierarchy specified in the NPSFM and the June 2022 exposure draft of the National Policy Statement for Indigenous Biodiversity (and which both adopt international best practice on effects management hierarchy):

*An approach to managing the adverse effects (including cumulative effects and loss of potential value) of an activity on the extent or values of a significant natural area, outstanding natural feature or landscape, outstanding water bodies (excluding rivers and natural wetlands), area of high or outstanding natural character, area or place of significant or outstanding historic heritage, wāhi tapu, wāhi taoka, areas with protected customary rights, and areas of high recreational and high amenity value that requires that:*

- a. *Adverse effects are avoided where practicable,*
- b. *Where adverse effects cannot be avoided, they are minimised where practicable,*
- c. *Where adverse effects cannot be minimised, they are remedied where practicable,*
- d. *Where more than minor residual adverse effects cannot be avoided, minimised, or remedied, offsetting is provided where possible,*
- e. *Where offsetting of more than minor residual effects is not possible, compensation is provided,*
- f. *If compensation is not appropriate, the activity itself is avoided.*

## **Minimise**

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<sup>31</sup> S42A Report, Chapter 1, Introduction and general themes, paragraph 224

<sup>32</sup> Submission 00235.125

<sup>33</sup> Submission 00315.014

<sup>34</sup> Submission 00511.012

<sup>35</sup> Submission 00320.012

- 6.3 I support the reporting officer's recommendation<sup>36</sup> to reject those submissions seeking that a new definition for 'minimise' be included in the PORPS. I agree with the reporting officer that it is a common term with a common meaning, but where it is used in the PORPS it is appropriately qualified.

### **Natural environment**

- 6.4 I support the reporting officer's recommendation<sup>37</sup> to reject those submissions seeking that a new definition for 'natural environment' be included in the PORPS. I agree that such a definition will be inconsequential to the interpretation of the relevant policy provisions.

### **Precautionary approach**

- 6.5 I support the reporting officer's recommendation<sup>38</sup> to reject those submissions seeking that a new definition for 'precautionary approach' be included in the PORPS. I agree that the precautionary approach concept is well understood and that there is sufficient context provided in the PORPS (particularly in light of the amendment recommended by the reporting officer to IM-P6<sup>39</sup>) to assist plan users.
- 6.6 For completeness, I consider that LF-WAI-P3 and HAZ-NH-M2 should refer to IM-P6 (revised) and HAZ-NH-P5 respectively. This is in line with other policies (e.g. CE-M3, CE-M4 and ECO-P3) and better contextualises the concept within LF-WAI-P3 and HAZ-NH-M2.

### **Regionally significant industry**

- 6.7 I consider the concept of 'regionally significant industry' is appropriate and should be embedded in the PORPS. Specifically, the following definition is proposed:

*means an economic activity based on the use of natural and physical resources in the region which has been shown to have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits. Regionally significant industry includes:*

- *Fonterra's Stirling manufacturing site at Mount Wallace Road, Stirling*
- *Fonterra's Mosgiel distribution site at 222 Dukes Road North, Mosgiel*
- *[new]*

- 6.8 The reporting officer has recommended that this submission be rejected<sup>40</sup>. For the reasons set out in Section 4 of my evidence, I disagree with the reporting officer. It is appropriate, and common practice, to recognise certain activities

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<sup>36</sup> S42A Report, Chapter 3, Definitions and abbreviations, paragraph 103

<sup>37</sup> S42A Report, Chapter 6, Integrated management, paragraphs 64 and 66

<sup>38</sup> S42A Report, Chapter 6, Integrated management, paragraphs 64 and 66

<sup>39</sup> S42A Report, Chapter 6, Integrated management, paragraph 274

<sup>40</sup> S42A Report, Introduction and general themes, paragraph 120

and features in our regulatory system that have social, economic or cultural benefits to our wellbeing.

### **Restore**

- 6.9 I support the reporting officer's recommendation<sup>41</sup> to reject those submissions seeking that a new definition for 'restore' (and 'restoration') be included in the PORPS. I agree that the plain meaning of this term is well understood, and that the definition proposed by Otago Fish and Game<sup>42</sup> introduces subjective language that would not assist plan users.

### **Reverse sensitivity**

- 6.10 I support the reporting officer's recommendation<sup>43</sup> to accept the submissions of Fonterra<sup>44</sup> and Waka Kotahi<sup>45</sup> seeking that a new definition for 'reverse sensitivity' be included in the PORPS. I consider that clarification of the term, by way of a definition, will assist plan users. I support (without amendment) the wording proposed by the reporting officer, specifically:

*The potential for the operation of an existing lawfully established activity to be constrained or curtailed by the more recent establishment or intensification of other activities which are sensitive to the effects of the established activity.*

### **Rural industry**

- 6.11 I support the reporting officer's recommendation<sup>46</sup> to accept the submissions of Fonterra<sup>47</sup> and others<sup>48</sup> seeking that a new definition for 'rural industry' be included in the PORPS. I support the use of the definition set out in the National Planning Standards as it applies to the PORPS context.

### **Sensitive activity**

- 6.12 Through submissions<sup>49</sup>, Fonterra requested that the definition of 'sensitive activities' be amended to include a more fulsome list of activities, specifically residential activity, visitor accommodation, community facility, educational facility and health care facility. The proposed definition adopted a less comprehensive

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<sup>41</sup> S42A Report, Chapter 6, Integrated management, paragraphs 64 and 66

<sup>42</sup> Submission 00231.019

<sup>43</sup> S42A Report, Chapter 6, Integrated management, paragraphs 64 and 66

<sup>44</sup> Submission 00213.005

<sup>45</sup> Submission 00305.005

<sup>46</sup> S42A Report, Chapter 15, urban form and development, paragraph 92

<sup>47</sup> Submission 00213.007

<sup>48</sup> Submissions 00221.001 (Silver Fern Farms), 00411.019 (Wafare Group) and 00206.012 (Trojan)

<sup>49</sup> Submission 00233.009

definition from the National Policy Statement on Electricity Transmission 2008 despite also being used in policies in Chapter 15: Urban Form and Development.

- 6.13 The reporting officer originally recommended<sup>50</sup> that the Fonterra submission be accepted in part, whereby a new definition be introduced that would apply to 'sensitive activities' in the Chapter 15: Urban form and development, but the reporting officer disagreed with the definition proposed by Fonterra and instead recommended the following wording<sup>51</sup>:

*Where used in the UFD chapter, means activities that are affected by the adverse effects of a lawful activity.*

- 6.14 Notwithstanding that the reporting officer's position has been revised, I disagree with the proposed definition. The reporting officer considers that it provides sufficient scope for territorial authorities to interpret and implement as best suits their district. However, I consider that the definition should be directive (in terms of the activities covered) to ensure that its interpretation and implementation cannot lead to key sensitive activities being overlooked. The definition proposed by Fonterra would still enable territorial authorities to add to their district plan definition as they see fit.
- 6.15 In supplementary evidence<sup>52</sup>, the reporting officer has recommended that the proposed definition should be deleted on the basis that recommendations in related supplementary evidence<sup>53</sup> propose to delete reference to 'sensitive activities' in UFD-O4, UFD-P7 and UFD-PR1.
- 6.16 I disagree with the proposed amendments to UFD-O4, UFD-P7 and UFD-PR1 to remove reference to 'sensitive activities' on the basis that:
- a. *'...activities that are sensitive to primary production and rural industry...'* is a rephrasing of the term 'sensitive activities'.
  - b. It remains unclear what activities are captured by *'...activities that are sensitive to primary production and rural industry...'*
  - c. *'...non-rural activities'* is not defined by the PORPS and provides no more or less clarity than the term sensitive activities (if also left undefined).
  - d. As residential activities, education facilities and community facilities are all anticipated in the rural zone (to varying degrees to service rural communities), it is unclear how the term *'non-rural activities'* will protect against these sensitive activities establishing in inappropriate or less appropriate locations in the rural environment.
- 6.17 I consider that 'sensitive activities' is the most appropriate term to be used in UFD-O4, UFD-P7 and UFD-PR1. On this basis, I do not support the

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<sup>50</sup> S42A Report, Chapter 3, Definitions and abbreviations, paragraph 63

<sup>51</sup> S42A Report, Chapter 3, Definitions and abbreviations, paragraph 64

<sup>52</sup> Supplementary evidence, Chapter 3, Definitions and abbreviations, paragraph 11

<sup>53</sup> Supplementary evidence, Chapter 15, Urban form and development, paragraph 29

recommendation to delete reference to 'sensitive activities' in Chapter 15: Urban form and development. I consider that the definition of 'sensitive activities' should be reinstated for Chapter 15 and the definition proposed by Fonterra adopted, specifically:

*Sensitive activities include the following:*

- a. *residential activity*
- b. *visitor accommodation*
- c. *community facility*
- d. *educational facility*
- e. *health care facility*

- 6.18 I acknowledge that the National Planning Standards definition of 'community facility' includes '*land and buildings for...health...purposes*'. If other submissions (through evidence) seek to include the National Planning Standards for 'community facility', and those submissions are accepted by the Panel, I would support the deletion of 'health care facility' from the definition proposed by Fonterra.

#### ***Stormwater system operator***

- 6.19 As the changes recommended by the reporting officer<sup>54</sup> to LF-FW-P15 do not incorporate the term 'stormwater system operator', I am satisfied that no definition is required for this term if the reporting officer's recommendations are accepted.

#### ***Te Mana o te Wai***

- 6.20 Fonterra opposed<sup>55</sup> the proposed definition of 'Te Mana o te Wai' on the basis that Section 1.3 of the NPSFM is not a definition but a broad description of a concept and a set of principles.
- 6.21 I agree that some clarification of the term 'Te Mana o te Wai' is useful for plan users given that it is a new concept introduced in National Policy Statement for Freshwater Management 2020 (**NPSFM**) and now being 'implemented' through Regional Policy Statements and Regional Plans.
- 6.22 I consider that the proposed definition unnecessarily repeats the NPSFM concept, which is neither helpful nor a definition. The concept and related principles are open to interpretation and therefore do not have a standard meaning which can usefully be adopted into the PORPS. For this reason, I consider the broad definition proposed by Fonterra should be accepted, specifically:

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<sup>54</sup> S42A Report, Chapter 9, land and freshwater, paragraphs 1212 – 1214

<sup>55</sup> Submission 00233.010

*Te Mana o te Wai is the concept described in clause 1.3 of the National Policy Statement for Freshwater Management 2020 (NPSFM 2020) and given effect to in accordance with the NPSFM 2020.*

### **Wastewater system operator – new**

- 6.23 As the changes recommended by the reporting officer<sup>56</sup> to LF-FW-P15 do not incorporate the term 'wastewater system operator', I am satisfied that no definition is required for this term if the reporting officer's recommendations are accepted.

## **7. SIGNIFICANT RESOURCE MANAGEMENT ISSUES FOR THE REGION (SRMR)**

### **SRMR-I4**

- 7.1 SRMR-I4 identifies the issues associated with poorly managed urban and residential growth particularly the effect on productive land, treasured natural assets, infrastructure and community well-being.
- 7.2 Along with a number of other submitters, Fonterra<sup>57</sup> sought greater recognition of the reverse sensitivity effects of urban encroachment including on rural industry and regionally significant industry.
- 7.3 The reporting officer has recommended that the submission by Fonterra seeking that 'industry' be included in the Issue heading be rejected<sup>58</sup>. I acknowledge that general industry should not be recognised in SRMR-I4; however, there is a clear policy pathway for 'rural industry' to be recognised in SRMR-I4; specifically, UFD-P7 which facilitates rural industry in rural areas and protects it from the effects of encroachment from inappropriate activities, including reverse sensitivity. I note that the reporting officer has recommended<sup>59</sup> that a definition for 'rural industry' be included in the PORPS (thereby distinguishing it further from general industry). Based on this, I consider that the heading be amended to include 'rural industry'.
- 7.4 Fonterra sought that reverse sensitivity effects in relation to rural based activities be better recognised in the 'Economics' section of SRMR-I4. The reporting officer has recommended that this change be rejected<sup>60</sup>.
- 7.5 Having reviewed proposed SRMR-I4 and the amendment recommended by the reporting officer (in response to other submitters), I consider that, while the Issue provides comprehensive coverage of the effects associated with urban growth on primary production and productive land, it does not adequately

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<sup>56</sup> S42A Report, Part 2, Resource Management Overview, paragraph 252

<sup>57</sup> Submission 00213.015

<sup>58</sup> S42A Report, Chapter 9, land and freshwater, paragraphs 1212 – 1214

<sup>59</sup> S42A Report, Chapter 15, urban form and development, paragraph 92

<sup>60</sup> S42A Report, Part 2, Resource Management Overview, paragraph 248

provide for rural industry. As noted in paragraph 7.3 above, there is a clear policy pathway for the establishment of rural industry and therefore I consider that it is appropriate to recognise the impact of urban growth on activities that can be reasonably anticipated in rural areas.

- 7.6 Further, I note that the PORPS has taken a more direct approach to provide for activities in the coastal environment by recognising their importance to wellbeing, including the economy, specifically [emphasis added]:

*Activities occurring within or affecting the coastal environment include urban development, recreational activities, transport infrastructure, energy generation and transmission, land and marine based (e.g. aquaculture) food production industries and other rural industry activities, plantation forestry, fishing, tourism, and mineral extraction. Such activities can be important contributors to the existing and future health and well-being of communities, when they are located and managed appropriately. A number of these activities provide a significant contribution to the regional economy<sup>61</sup>.*

- 7.7 I consider that a similar approach should be taken in SRMR-I4 for primary production, rural industry and other activities that have an operational or functional need to locate in rural areas and also recognises their important contribution to wellbeing, including the economy. Such an approach elevates the regional importance of the rural sector above what currently reads as a small local effect in the event of an isolated urban encroachment incident.

- 7.8 I set out my recommended amendments to SRMR-I4 below:

***SRMR-I4 – Poorly managed urban and residential growth affects productive land, treasured natural assets, rural industry, infrastructure and community well-being***

*Statement*

...

*Context*

...

*Urban growth, especially if it exceeds infrastructure capacity (either through sheer pace and scale or by lack of planning) or if it occurs in a way or at a rate that mean that appropriate infrastructure is not provided, is lagging or is inefficient, can result in adverse impacts on the environment, existing residents, business and wider society. Quality urban environments are those that maximise the positive aspects of urban areas and minimise the negative. In addition, the productive land in Otago contributes to the social and economic wellbeing of the community through production of food and other rural production-based products and activities. However, where development occurs in a place or manner that removes or reduces the potential to use productive land or undertake rural based activities, including through reverse sensitivity effects, the*

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<sup>61</sup> Proposed Regional Policy Statement, SRMR-I8, Context section

productive capacity of the land and the economic and social wellbeing of the region is compromised.

Impact snapshot

Environmental

...

~~Urban development growth within rural areas can also lead to reverse-sensitivity effects on existing primary production activities and related rural based activities, because urban activities can be sensitive to the effects generated by primary production activities and related rural based activities, such as rural industry, whereby traditional methods of pest management or the undertaking of rural production activities cannot be deployed due the proximity of urban populations and the potential for adverse impacts on those populations. Such activities can be important contributors to the existing and future well-being of communities and a number of these activities provide a significant contribution to the regional economy.~~

...

Economic

While potentially providing short term commercial returns, poorly managed urban growth and development may result in long term impacts including:

- ~~the loss of land for primary production activities productive land~~ (either directly though building on it, or indirectly though reverse sensitivity effects);
- conflict arising from the location of incompatible activities within proximity of each other, including the potential for reverse sensitivity effects on the continued operation and growth of rural based activities, including rural industry and regionally significant industry.
- ~~the consequences of previous decisions (low density development, including rural residential lifestyle, in the short term can preclude higher density development in the medium to longer term);~~
- ~~increased capital and operational costs for infrastructure which can foreclose other more suitable investments or spending, increased costs from less efficient spatial arrangements (such as increased transportation and infrastructure costs to both users and operators), and loss of valued natural capital and future opportunities; and~~



- *housing affordability can be negatively affected by urban growth where demand outpaces supply.*

...

*Social*

...

- 7.9 As an aside, I consider the PORPS overall approach to urban growth and development to be poor. An appropriate and effective method to manage urban growth is for regional councils to undertake a spatial planning exercise identifying a rural-urban boundary (with an appropriate pathway for urban development outside of the boundary). This provides greater certainty for territorial authorities, iwi, infrastructure providers and urban and rural communities alike and is clearly the central government's preferred approach for urban growth given the incoming Spatial Planning Act and the requirement for regional spatial strategies.

### **SRMR-I10 and SRMR-I11**

- 7.10 Fonterra sought amendments to SRMR-I6, -I10 and -I11 (or the drafting of a new issue) to recognise that the inevitable use of resources is a key function of economic and social wellbeing. Fonterra considers that, as drafted, these Issues paint a picture that resource use must stop, rather than providing for consumption within environmental limits and they ignore the economic and social benefits of resource use. The reporting officer has recommended that Fonterra's submissions be rejected<sup>62</sup>.
- 7.11 I note that SRMR-I6 is a freshwater planning instrument and will be dealt with as part of the freshwater proceedings and will therefore not be addressed further here.
- 7.12 The reporting officer also notes that there are five other submitters<sup>63</sup> (in addition to Fonterra) who consider that that the use, development and protection of physical resources has been overlooked in the Issue statements or that recognition of key regional industries or sectors is required.
- 7.13 My first concern is the reporting officer's assertion that it is not appropriate to introduce a new Issue because *'the existing issue statements have been workshopped and widely consulted on, including public consultation and Reference Group workshops. I do not consider that it is appropriate to add significant resource management issues to the existing suite when they have not been through the same consultation process as the eleven issues that have been identified'*<sup>64</sup>. The very point of a public process is to enable comment and indeed change of the PORPS. The input of key stakeholders (prior to public notification)

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<sup>62</sup> S42A Report, Part 2, Resource Management Overview, paragraph 552

<sup>63</sup> Submission 00315.015, Submission 00310.003, Submission 00411.097, Submission 00322.004, Submission 00314.009

<sup>64</sup> S42A Report, Part 2, Resource Management Overview, paragraph 550

is important, but not sacrosanct and can therefore be amended through the public process.

- 7.14 I consider that, as proposed, the Issue statements of the PORPS overlook a significant issue facing the region, namely the potential for reduced social and economic wellbeing of people and communities as a result of prioritising the protection of natural resources (rather than use and development of those resources). I support the concept of Te Mana o te Wai and the prioritisation of the health and wellbeing of freshwater; however, I consider that the Council, as proponents of the PORPS, have applied the concept considerably more broadly than just to freshwater and have consequentially 'glossed over' the substantial effect that this will have on some sectors within the region. I consider that this issue requires articulation and I do not consider that articulating such an issue undermines the criticality of Te Mana o te Wai or more broadly the protection of natural resources, rather it completes the picture of the issues facing the region.
- 7.15 I do not consider that such a one-sided approach to sustainable management is anticipated by the RMA or the national policy relevant to the formulation of the PORPS. I consider that the issues should reflect this, specifically:
- a. The RMA provides for [emphasis added]<sup>65</sup> *'...the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety...'*. Therefore, any risk to people and communities and their ability to provide for their social and economic wellbeing is an issue for the region, and this would include the impact of any national policy on existing activities, particularly significant activities or sectors within the region.
  - b. Objective 2.1 of the NPSFM sets out a priority response to freshwater. This is reinforced by Clause 3.9(b) of the NPSFM which directs that *'a regional council may identify other values applying to an FMU or part of an FMU, and must in every case consider whether the values listed in Appendix 1B apply'* [emphasis added]. The 'other values' listed in Appendix 1B include natural form and character, drinking water supply, wai tapu, transport and tauranga waka, fishing, hydro-electric power generation, animal drinking water, irrigation, cultivation, and production of food and beverages, and commercial and industrial use. Objective 2.1 and Clause 3.9(b) clearly recognise the importance of 'other values' (activities); however, these are 'less important' than the *mauri of the wai*. I do not consider that it is inconsistent with the NPSFM (or fails to give effect to it) to acknowledge the challenge that an evolving resource management environment represents for existing resource users in the region.
  - c. The NPSFM is not the only national policy statement that the Council must give effect to. Other national policy includes:
    - i. The National Policy Statement for Renewable Electricity Generation 2011 (**NPSREG**) *'recognises the importance of renewable energy*

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<sup>65</sup> Resource Management Act, section 5

*and will help New Zealand achieve the Government's target of 90 per cent of electricity from renewable sources by 2025'.*

The MfE website notes *'the NPS Renewable Electricity Generation and the National Policy Statement for Freshwater Management both affect hydro-electricity generation. The former provides direction and guidance on the development, operation, maintenance and upgrading of renewable electricity generation activities and their benefits. The latter provides direction and guidance on the appropriate use and/or allocation of water resources. RMA resource consent decision-makers need to have regard to both national policy statements and RMA plans will need to give effect to both of them' [emphasis added].*

As such, both must be afforded priority in the PORPS, and it is appropriate to recognise this conflict.

- ii. The National Policy Statement on Urban Development 2020 (**NPSUD**) *'is about ensuring New Zealand's towns and cities are well-functioning urban environments that meet the changing needs of our diverse communities. It removes overly restrictive barriers to development to allow growth 'up' and 'out' in locations that have good access to existing services, public transport networks and infrastructure*<sup>66</sup>.

I note that there is no discussion on the MfE website, or within the NPSUD itself, relating to competing or conflicting priorities between the NPSUD and the NPSFM. As such, both must be afforded priority in the PORPS and it is appropriate to recognise this conflict.

- iii. The National Policy Statement for Highly Productive Land 2022 (**NPSHPL**) *'is about ensuring the availability of New Zealand's most favourable soils for food and fibre production, now and for future generations*<sup>67</sup>.

Policy 2 of the NPSHPL requires that<sup>68</sup> *'the identification and management of highly productive land is undertaken in an integrated way that considers the interactions with freshwater management and urban development'*. Policy 2 is implemented by Clause 3.12<sup>69</sup> which requires territorial authorities to *'...encourage opportunities that maintain or increase the productive capacity of highly productive land, but only where those opportunities are not inconsistent with:...any matter of national importance under section 6 of the Act; or...any environmental outcomes identified in*

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<sup>66</sup> <https://environment.govt.nz/acts-and-regulations/national-policy-statements/national-policy-statement-urban-development/>

<sup>67</sup> <https://environment.govt.nz/publications/national-policy-statement-for-highly-productive-land/>

<sup>68</sup> National Policy Statement for Highly Productive Land, Policy 2

<sup>69</sup> National Policy Statement for Highly Productive Land, Clause 3.12

*accordance with the National Policy Statement for Freshwater Management 2020'.*

I consider that Clause 3.12 prioritises freshwater outcomes over the use of highly productive land. However, this in itself represents an issue for the region and how the region is to continue to provide for primary production when resource use may be restricted.

- 7.16 Overall, I consider that the 'policy making environment' very clearly demonstrates that there are conflicting priorities and there are sectors and activities that will come under pressure as resource use is constrained, and consequently the economic and social wellbeing of people and communities may be affected.
- 7.17 Fonterra is expecting, and already undertaking, substantial changes to their operations to account for environmental constraints and a changing regulatory environment, for example, transitioning the coal boiler at Stirling to a biomass (renewable) boiler, which Ms O'Rourke notes<sup>70</sup> *'...is part of Fonterra's strategic approach to replacing coal fired boilers at their remaining nine sites with biomass boilers by 2037. As a result, and based on a 2018 baseline, there will be a 30% reduction in emissions from manufacturing operations by 2030'.*
- 7.18 As noted by Mr Copeland<sup>71</sup>, closure or constraints placed on the processing capacity at Stirling and Mosgiel would have negative economic impacts, including:
- Increased transport costs and road externality costs
  - Decreased processing capacity and therefore resilience within the manufacturing network
  - Wasted or 'stranded' asset value, noting that the replacement value for the facilities at Stirling is estimated at \$235M, and at Mosgiel it is \$121M.
  - Fewer direct effects, including
    - the loss of up to 110 jobs (or \$10M in wages and salaries) at Stirling and up to 21 jobs (or \$1.6M in wages and salaries) at Mosgiel
    - lost 'spend' (up \$70M at Stirling and up to \$1.9M at Mosgiel)
  - Fewer indirect effects, including
    - The loss of up to 165 additional jobs (or \$15M in wages and salaries) and \$37M in spend for the Clutha District (Stirling)
    - The loss of up to 220 additional jobs (or \$20M in wages and salaries) and \$98M in spend for the Otago Region (Stirling)

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<sup>70</sup> Evidence in Chief, Ms Suzanne O'Rourke, paragraph 29

<sup>71</sup> Evidence in Chief, Mr Mike Copeland, paragraphs 37 – 50

- The loss of up to 37 additional jobs (or \$2.8M in wages and salaries) and \$3.3M in spend for the Dunedin City (Mosgiel)
- The loss of up to 43 additional jobs (or \$3.2M in wages and salaries) and \$3.9M in spend for the Otago Region (Mosgiel)

7.19 Regulatory compliance is a significant and ongoing part of operating a significant business and in the face of closure or constraints (due to resource use restrictions) the economic implications at both a local and regional level would be substantial.

7.20 I consider that, as proposed, the Issue statements overlook the cost of doing business and the cost associated with business constraints or closures, and the overall risk of this to the economic and social wellbeing of the people and communities as resource use (most notably freshwater) becomes restricted or prohibited to halt degradation and assist with the sustainable management, including protection, of the natural environment.

7.21 I consider that this oversight can be addressed in one of two ways; either the inclusion of key sentences in SRMR-I6, -I10 and -I11, or an entirely new Issue statement. In evidence, I have opted for amendments to SRMR-I6, -I10 and -I11, but I am open to conferencing with other interested parties to draft a new Issue statement if that is ultimately considered more appropriate by the Panel.

***SRMR-I10 – Economic and domestic activities in Otago use natural resources but do not always properly account for the environmental stresses or the future impacts they cause***

*Statement*

....

*Context*

*The Otago regional economy GDP totals \$13.2 billion and supports a population of 236,200 residents (over half of which are in Dunedin). A significant part of the economy relies on the region’s natural resources (air, vegetation, biodiversity, water, land, marine and minerals), ~~including. This supports~~ agriculture, forestry, fishing (6.9% of GDP), mining (4.5% of GDP), electricity, gas, water and waste services (4.4% of GDP), as well as conservation activities and hunting. Tourism (18.1% of GDP) also partially relies on the natural values of the region. A vibrant economy is a key factor in the social wellbeing of the region and contributes to increased economies of scale and competition, reduced unemployment and underemployment (of resources, including labour) and increased investment by central government into local services (such as schools).*

*However, economic activity needs to more effectively account for and manage its impacts on the region’s natural resources. Where business and social activity does not account for its impacts on natural resources in the long term, not only is the sustainability of the region’s natural resources threatened, but equally the associated long term economic, social and cultural ~~values are wellbeing is~~ also threatened.*

## Impact snapshot

### Environmental

....

### Economic

The costs of production can rise because of poor quality natural resources, for example, through higher input costs (e.g. fertiliser, weed and pest control); and remediation requirements (e.g. riverbank restoration, erosion control). Some land management practices can compromise productive capacity of agricultural land, for example, loss of soil through erosion or soil structure through compaction. Marine industries (e.g. fishing and aquaculture) can also be adversely affected.

There is an individual business cost to achieving regulatory compliance (and staying compliant) and operating within environmental limits, which becomes increasingly more difficult if effective communication between the business sector and central and local government is not prioritised. Business environmental performance is becoming increasingly important in terms of providing access to investment. ~~Poor business environmental performance can also lead to increased regulatory requirements and associated higher costs of doing business.~~

Lastly, there is a significant cost to our economic wellbeing if businesses close due to an inability to strike a balance between operational requirements and natural resources use within environmental limits.

### Social

Damage to or loss of natural features and landscapes compromises amenity values. Failure of business to sustainably manage their impact on natural resources ~~can compromise~~ the social licence of a business sector to operate. This adversely impacts social capital (trust) and can create community division. In extreme cases it can lead to calls for reduced access to resources.

**SRMR-I11 – Cumulative impacts and resilience – the environmental costs of our activities in Otago are adding up with tipping points potentially being reached**

### Statement

...

### Context

....

## Impact snapshot

### Environmental

While many ecosystems have a degree of resilience, increasing pressures on the environment, typically as a result of human activities (~~for example economic development~~), can have an adverse cumulative effect. Climate change also has the potential to seriously challenge ecosystem adaptive capacity. Much work is being undertaken to address this challenge, but it is still possible that permanent changes may occur (tipping point).

The first and best response is to ensure sustainable management of our natural resources and avoid immediate and long-term cumulative effects that degrade the environment. ~~At the same time As part of~~ a resilience approach, environmental is needed that identifies thresholds and sets limits on the use of natural resources need to be identified to avoid permanent and potentially catastrophic changes occurring, as would occur if a tipping point is reached.

Indicators and tools for measuring resilience and tipping points remain in the early stages of understanding and development. Even though regulatory agencies and proponents for natural resource development and environmental rehabilitation projects have difficulties interpreting and verifying the potential for environmental recovery and resilience (particularly in relation to the regulatory context of impact assessment in order to provide consenting decisions for regulated activities) that should not be taken as a reason to delay acting.

#### Social and economic

The well-being of Otago's people and communities in the long term will be sustained by the enduring ecological health and resilience of the environment and by human activity providing for the environment in equal or greater measure than is taken from it (in other words, net impact determines net well-being). It will also be sustained through community resilience so that it can adapt and nimbly respond to future challenges.

A knee jerk reaction to the current state of the environment, may unwittingly compromise the social and economic wellbeing of people and communities. Building environmental and community resilience relies on prioritising the natural environment, while allowing resource use within environmental limits.

A critical component to achieving sustainable management is ensuring stakeholder buy-in through clear, concise and timely information dissemination, communication and engagement.

## 8. INTEGRATED MANAGEMENT (IM)

### IM-01

- 8.1 Through submissions, Fonterra sought<sup>72</sup> the inclusion of 'social, economic and cultural' before 'wellbeing'. The reporting officer has recommended that this submission be rejected<sup>73</sup>.
- 8.2 As I have noted in paragraph 5.6 above, the purpose of the PORPS '*...is to achieve the purpose of the Act...*'<sup>74</sup>. The purpose of the Act '*...is to promote the sustainable management of natural and physical resources*', which means '*...managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety...*' [emphasis added].
- 8.3 The reporting officer has stated *it is more appropriate to refer to all types of wellbeing than to specify particular types*<sup>75</sup>. However, in accordance with s5 of the RMA, the relevant wellbeings are 'social, economic and cultural' and I consider that IM-01 should reflect this. To this end, I also support the submission of Transpower<sup>76</sup> to include 'health and safety' in the objective as this is consistent with the purpose of the RMA.
- 8.4 I support the reporting officer's recommendation<sup>77</sup> to reject the submission of Forest and Bird<sup>78</sup> requiring all natural systems to be healthy and resilient before the well-being of present and future generations can be supported. I agree that this is inconsistent with the purpose of the RMA.
- 8.5 I consider the wording of the objective should be amended as follows:

*The management of natural and physical resources ~~in Otago~~, by and for the people of Otago, including in partnership with Kāi Tahu, ~~and as expressed in all resource management plans and decision making~~, achieves a healthy, and resilient, and safeguarded natural systems environment, ~~and including the ecosystem services they offer~~ it provides, and supports the social, economic and cultural well-being and the health and safety of present and future generations; (mō tātou, ā, mō kā uri ā muri ake nei).*

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<sup>72</sup> Submission 00233.021

<sup>73</sup> S42A Report, Chapter 6: IM – Integrated management, paragraph 89

<sup>74</sup> Resource Management Act, s59

<sup>75</sup> S42A Report, Chapter 6: IM – Integrated management, paragraph 89

<sup>76</sup> Submission 00314.010

<sup>77</sup> S42A Report, Chapter 6: IM – Integrated management, paragraph 93

<sup>78</sup> Submission 00230.028



### **IM-O3**

- 8.6 Fonterra made a further submission<sup>79</sup> on Ravensdown's submission<sup>80</sup> on IM-O3. The reporting officer initially recommended that the Ravensdown submission be rejected<sup>81</sup> (and consequently the further submission of Fonterra be rejected). However, in supplementary evidence, the reporting officer has recommended that the submissions on IM-O3 by Ravensdown (as well as Federated Farmers of New Zealand (**Federated Farmers**), LAC Properties Trustees Limited, Lane Hocking, Maryhill Limited, Mt Cardrona Station, and Universal Developments Hawea Limited) be accepted. I support this recommendation and the consequential wording of IM-O3, specifically:

*Otago's communities carry out their activities in a way provide for their social, economic, and cultural well-being in ways that support or restore preserves environmental integrity, form, function, and resilience, so that the life-supporting capacities of air, water, soil, and ecosystems are safeguarded, ~~and indigenous biodiversity endure~~ for future generations.*

- 8.7 I consider that the amended wording of IM-O3 strikes an appropriate balance between resource use and protection of the natural environment.

### **IM-P2**

- 8.8 Fonterra made a further submission<sup>82</sup> on Ravensdown's submission<sup>83</sup> seeking that IM-P2 be deleted (along with 12 other submitters<sup>84</sup>). The reporting officer has recommended that the Ravensdown's submission be accepted in part<sup>85</sup>, although the solution, in my opinion, amounts to rejecting the submission (and consequently the further submission of Fonterra being rejected). In their recommendation, the reporting officer has talked at length about when the policy applies and what it requires, and ultimately recommends that IM-P2 is kept in part and incorporated into IM-P1.

- 8.9 I disagree with the reporting officer's recommendation to incorporate any element of IM-P2 into IM-P1. I consider it is inappropriate to lean so heavily on a freshwater concept and apply it to decision making more generally because:

- a. The recommended amendment to IM-P1 is inconsistent with the purpose of the RMA (which pursuant to s59, the PORPS must 'achieve'). In my opinion, the purpose of the RMA already has a built-in priority function. The RMA clearly enables resource use, development and protection to support the wellbeing of people and communities while sustaining the

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<sup>79</sup> Further submission FS00233.013

<sup>80</sup> Submission 00121.017

<sup>81</sup> S42A Report, Chapter 6: IM – Integrated management, paragraph 122

<sup>82</sup> Further submission FS00233.014

<sup>83</sup> Submission 00121.020

<sup>84</sup> Submission 00016.001, Submission 00315.016, Submission 00025.016, Submission 00017.001, Submission 00322.007, Submission 00320.013, Submission 00235.063, Submission 00511.013, Submission 00313.005, Submission 00023.003

<sup>85</sup> S42A Report, Chapter 6: IM – Integrated management, paragraph 191

potential of natural and physical resources, safeguarding the life-supporting capacity of natural resources and managing (by way of avoiding, remedying and mitigating) effects. I consider that the inclusion of the words 'protection' and 'while' mean that the RMA anticipates that natural and physical resources will be prioritised where the potential of natural and physical resources is unable to be sustained, the life-supporting capacity of natural resources is unable to be safeguarded and effects cannot be appropriately managed. I consider that the safety net that the Council are attempting to inarticulately recreate already exists.

- b. I consider the other key point to note is that sections (2)(a), (b) and (c) are conjunctive and that to cherry pick the 'life-supporting capacity' of the natural environment in IM-P1 takes this RMA directive out of context.
- c. The RMA directs that matters of national importance *shall be recognised and provided for*<sup>86</sup> and does not prioritise these. Matters of national importance include natural and physical resources, as well as cultural wellbeing and natural hazards.

I also note that *'the purpose of national policy statements is to state objectives and policies for matters of national significance that are relevant to achieving the purpose of this Act'*<sup>87</sup>. Meaning that, an NPS does not relate only to matters of national importance (i.e. urban development is not a matter of national importance) and nor does the existence of an NPS for a matter of national importance prioritise it over a matter of national importance that does not have an NPS.

Accordingly, where proposals involve more than one matter of national importance, the prioritisation setting included in IM-P1 would (attempt to) prioritise natural resources over matters of national importance pertaining to physical resources, cultural wellbeing and natural hazards and I do not consider that this is appropriate.

- d. I consider IM-P1 is inconsistent with national direction, because ultimately there are conflicting priorities across New Zealand's national policy statements.

- 8.10 I consider that IM-P1 should be amended to confirm that the overall broad judgement approach can only be relied upon when a full and detailed assessment of all relevant regional and national policy has been completed and yet conflict still remains (in line with the King Salmon<sup>88</sup> judgement).

*Giving effect to the integrated package of objectives and policies in this RPS requires decision-makers to consider all provisions relevant to an issue or decision and apply them according to the terms in which they are expressed, and if there is a conflict between provisions that cannot be resolved by the application of*

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<sup>86</sup> Resource Management Act, s6

<sup>87</sup> Resource Management Act, s45

<sup>88</sup> Environmental Defence Society Incorporated V The New Zealand King Salmon Company Limited [2014] NZSC 38 [17 April 2014]

higher order documents apply an overall broad judgement approach pursuant to the purpose of the Resource Management Act., ~~prioritise:~~

- ~~(1) — the life-supporting capacity and mauri of the natural environment and the health needs of people, and then~~
- ~~(2) — the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.~~

#### **IM-P4**

- 8.11 I support the reporting officer's recommendation to reject the Forest and Bird submission<sup>89</sup> (which Fonterra<sup>90</sup> made a further submission on) seeking that the policy provide for cumulative effects and specify that a precautionary approach is required. I support the amended wording of IM-P4 set out in the reporting officer's supplementary evidence, specifically:

*Healthy and resilient ecosystems and ecosystem services are achieved by developing regional and district plans through a planning framework that:*

- ~~(1) protects having~~ *have particular regard to their the intrinsic values of ecosystems,*
- ~~(2) takes taking~~ *take a long-term strategic approach that recognises changing environments and ongoing environmental change, including the impacts of climate change,*
- ~~(3) recognises recognising~~ *recognise and provides providing provide for ecosystem complexity and interconnections, and*
- ~~(4) anticipates anticipating~~ *anticipate, or responds responding respond swiftly to, changes in activities, pressures, and trends.*

- 8.12 I consider that cumulative effects and the precautionary approach (with respect to ecosystems and ecosystems services) are appropriately dealt with elsewhere in the PORPS: specifically, IM-P5 (as amended), IM-M1 (as amended), LF-WAI-P3, ECO-P3, ECO-P5 and IM-P15.

#### **IM-P6**

- 8.13 Fonterra<sup>91</sup> sought amendments to IM-P6 to qualify that 'best available information' should include scientifically robust data, information from sources that provide the most certainty and take all practical steps to reduce uncertainty. The reporting officer has recommended that this submission be accepted in part<sup>92</sup>.

- 8.14 I agree with the reporting officer's recommended amendments to IM-P6, specifically:

*Avoid unreasonable delays and manage uncertainties in decision-making processes by using the best information available at the time, including ~~but not limited to~~ complete and scientifically robust data, mātauraka Māori, local knowledge, and reliable partial data. and:*

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<sup>89</sup> Submission 00230.034

<sup>90</sup> Further submission FS00233.015

<sup>91</sup> Submission 00233.023

<sup>92</sup> S42A Report, Chapter 6: IM – Integrated management, paragraph 270

- (1) in the absence of complete and scientifically robust data, using information obtained from modelling, reliable partial data, and local knowledge, but in doing so:
  - (a) prefer sources of information that provide the greatest level of certainty, and
  - (b) take all practicable steps to reduce uncertainty, and
- (2) adopt a precautionary approach towards activities whose effects are uncertain, unknown, or little understood, but potentially significantly adverse.

### **IM-P13**

8.15 I support the reporting officer's recommendation<sup>93</sup> to delete IM-P13 on the basis that cumulative effects are accounted for in the RMA definition of 'effect' and do not need to be addressed by a separate policy. I support the consequential amendment to IM-P5 to recognise cumulative effects<sup>94</sup> and to assist with implementing IM-O3.

### **IM-P14**

8.16 Fonterra made a further submission<sup>95</sup> on Federated Farmer's submission<sup>96</sup> seeking that IM-P14 be deleted (along with 11 other submitters<sup>97</sup>). The reporting officer does not specifically address the submissions to delete the policy entirely.

8.17 I generally support the amendments recommended by the reporting officer to IM-P14. However, I consider that two further amendments are required.

8.18 Firstly, I consider that the title of the policy should be amended from 'Human impact' to 'Sustaining resource potential'. At s5(2)(a), the RMA refers to '*sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations*' and I consider that this is ultimately what IM-P14 is seeking to achieve through the setting of environmental limits.

8.19 Secondly, I do not support the wording of IM-P14(3) as I consider that this creates significant uncertainty for consent holders and the successful and necessary ongoing operation of a number of sectors and significant activities.

8.20 A sudden and unexpected change to environmental limits, may render some sectors and activities incapable of operating. Given the contribution that natural resource use makes to the ongoing social and economic wellbeing of the region, it is inappropriate for the council to make abrupt changes to environmental limits without consulting with affected resource users. I consider that council should be required to carry out ongoing consultation with respect to environmental limits,

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<sup>93</sup> S42A Report, Chapter 6: IM – Integrated management, paragraph 410

<sup>94</sup> Supplementary evidence, Chapter 6: IM – Integrated management, paragraph 38

<sup>95</sup> Further submission FS00233.018

<sup>96</sup> Submission 00239.044

<sup>97</sup> Submission 00315.017, Submission 00314.012, Submission 00318.010, Submission 00320.014, Submission 00115.012, Submission 00511.014, Submission 00313.007, Submission 00122.006, Submission 00221.002

which will keep all stakeholders informed of changing natural states and resource demand (which may change as a result of business or technology changes).

8.21 I recommend the following amendment to IM-P14:

*IM-P14 – ~~Human impact~~ Sustaining resource potential*

*When preparing regional plans and district plans, Ppreserve opportunities for future generations by:*

- (1) identifying environmental limits wherever practicable to both growth and adverse effects of human activities beyond which the environment will be degraded,*
- (2) requiring that activities are established in places, and carried out in ways, that are within those environmental limits and are compatible with the natural capabilities and capacities of the resources they rely on, and*
- (3) in consultation with resource users, regularly assessing and adjusting environmental limits and thresholds for activities over time in light of the actual and potential environmental impacts-, including those related to climate change, and*
- (4) promoting activities that reduce, mitigate, or avoid adverse effects on the environment.*

#### **IM-M1**

8.22 I support the amendments recommended by the reporting officer<sup>98</sup> to IM-M1. I consider these amendments improve clarity and assist implementation.

#### **IM-M4**

8.23 Having read the discussion on the climate change provisions in the Integrated Management chapter<sup>99</sup>, specifically paragraph 29, I agree with the reporting officer's recommendation<sup>100</sup> to reject the submissions of Forest and Bird and Wise Society that relate to the reduction of greenhouse gas emissions. I agree that the PORPS' primary focus needs to be adaptation as the central government's emissions reduction planning provides the key directions for mitigation.

#### **IM-M5**

8.24 I acknowledge the reporting officer's recommendation<sup>101</sup> to reject Federated Farmers' submission<sup>102</sup> (and Fonterra's further submission<sup>103</sup>) to provide opportunities for water storage to mitigate the effects of climate change on the basis that this is already provided for in LF-FW-M6(6). I consider that pre-

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<sup>98</sup> S42A Report, Chapter 6: IM – Integrated management, paragraph 494

<sup>99</sup> S42A Report, Chapter 6: IM – Integrated management, section 6.3.1

<sup>100</sup> S42A Report, Chapter 6: IM – Integrated management, paragraph 529 and 530

<sup>101</sup> S42A Report, Chapter 6: IM – Integrated management, paragraph 542

<sup>102</sup> Submission 00239.049

<sup>103</sup> Further submission FS00233.022

emptive action in this regard to be important and that support for such measures in the PORPS is appropriate.

- 8.25 However, I note that LF-FW-M6 has been re-notified as a freshwater planning instrument and therefore may be amended through the remainder of the PORPS development process such that water storage is no longer accounted for.
- 8.26 On this basis, I disagree (at this stage) with the reporting officer's recommendation to reject Federated Farmer's submission as water storage to mitigate climate change should be provided for in the PORPS and IM-M5 seems the appropriate place to provide for this requirement. In the event that water storage is provided for in LF-FW-M6, I am comfortable that it does not also need to be stated in IM-M5.
- 8.27 I consider IM-M5 should therefore be amended as follows:

*Local authorities should:*

...

- (5) *Enable appropriate water storage solutions to mitigate the effects of climate change*

## **9. AIR (AIR)**

### **AIR-O1**

- 9.1 Fonterra sought<sup>104</sup> for AIR-O1 to be retained as notified. The reporting officer has recommended a minor amendment to the objective<sup>105</sup>, which I consider provides improved clarity to the objective and I therefore support.

### **AIR-O2**

- 9.2 Fonterra sought<sup>106</sup> amendments to AIR-O2 to enable discharges to air provided there are no significant localised effects on human health, amenity values, mana whenua values or the life supporting capacity of ecosystems. The reporting officer has recommended that this submission be rejected<sup>107</sup> on the basis that *unqualified 'protection' as an outcome provides the ability for the policies to establish the level of adverse effects that are acceptable* and that the change reflects the wording of a policy rather than an objective.
- 9.3 I disagree with the reporting officer that 'protection' is an appropriate threshold for the objective on the basis that the policies will establish the level of adverse effect that is appropriate. I consider that 'protect' is akin to 'avoid', which would effectively prohibit discharges to air and I do not think that it is appropriate for

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<sup>104</sup> Submission 00213.024

<sup>105</sup> S42A Report, Chapter 7: AIR – Air, paragraph 34

<sup>106</sup> Submission 00233.025

<sup>107</sup> S42A Report, Chapter 7: AIR – Air, paragraphs 42 and 43

an objective to effectively set an 'avoid' threshold when national standards are not so restrictive.

- 9.4 I agree with the reporting officer that the wording provided by Fonterra may be erring towards policy language and for this reason, I recommend the following amendment<sup>108</sup>; specifically:

*~~The adverse effects of discharges on Human health, amenity values and mana whenua values and the life-supporting capacity of ecosystems are protected from the adverse effects of discharges to air. appropriately managed.~~*

- 9.5 I consider that the amendments I have proposed to AIR-O2 will better enable a suite of policies to address adverse effects, particularly as I consider that 'manage' is an appropriate umbrella term (in an RMA sense) to avoid, remedy or mitigate effects. I consider that including 'manage' in the objective means that the appropriate language (relative to the effects) can be adopted in the proceeding policies (i.e. avoid significant effects, enable acceptable effects).

### **AIR-P1 and AIR-P2**

- 9.6 Fonterra sought<sup>109</sup> amendments to AIR-P1 and AIR-P2 to improve clarity by specifying the relevant standards and guidelines that determine 'good' ambient air quality and 'degraded' ambient air quality. The reporting officer recommended that these submissions be rejected<sup>110</sup>, but in supplementary evidence the reporting officer acknowledged that some amendments be made to AIR-P1<sup>111</sup>.
- 9.7 I support the reporting officer's acknowledgement<sup>112</sup> that the use of 'good' in AIR-P1' is not appropriate (and should be removed), and that 'poor' in AIR-P2 should be replaced with 'degraded'<sup>113</sup>.
- 9.8 The primary reason that the reporting officer cites for rejecting Fonterra's submissions seeking reference to the NESAQ in AIR-P1 and AIR-P2 is that *'air quality in the Otago Region does not comply with the ambient air quality standards set out in the NESAQ or the operative Regional Air Plan. Due to the high number of exceedances continuing, and potentially increasing as a result of future amendments to the NESAQ, the Regional Air Plan is not adequately managing air quality and the intent of the policy direction for this chapter is to establish a framework for the future Regional Air Plan. Given the current air quality monitoring results, it is likely that the future Regional Air Plan will provide an interim step to eventually meeting the ambient air quality standards in the NESAQ and future iterations of the standard. Based on this, it is considered that not referring to the NESAQ through Policy AIR-P2 will provide the ability for the future Regional Air Plan to set the limits and timeframes for*

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<sup>108</sup> Submission 00226.115

<sup>109</sup> Submissions 00213.026 and 00233.027

<sup>110</sup> S42A Report, Chapter 7: AIR – Air, paragraphs 53, 54 and 65

<sup>111</sup> Supplementary evidence, Chapter 7: AIR – Air, paragraphs 5 – 10.

<sup>112</sup> Supplementary evidence, Chapter 7: AIR – Air, paragraph 10.

<sup>113</sup> S42A Report, Chapter 7: AIR – Air, paragraph 67

*improving ambient air quality in the region where it is poor'* (with similar comments also made in paragraph 53 of the s42A Report).

- 9.9 It is unclear to me why the Council would seek to apply air quality standards that are stricter than the National Environmental Standards for Air Quality 2004 (**NESAQ**), as a means for addressing current NESAQ breaches. The NESAQ is the national framework for determining whether ambient air quality is good or degraded; it is informed by the World Health Organisation and New Zealand's own national studies. The NESAQ is currently being reviewed with possible changes including<sup>114</sup> using PM<sub>2.5</sub> as the primary regulatory tool to manage ambient particulate matter, reducing mitigation requirements for breaches of PM<sub>10</sub>, transitioning resource consents and airshed management to a PM<sub>2.5</sub> regime, reducing the emissions standard for domestic solid-fuel burners, greater restrictions on solid-fuel burners and prohibiting mercury emitting industrial processes.
- 9.10 Given that appropriate standards exist at a national level (with revisions likely soon that will reflect internationally accepted outcomes for human health), I do not consider that the Council should be focussing on setting bespoke limits for the Otago region. Given that the region experiences current breaches to the NESAQ standards, I consider that the primary focus of the PORPS should be establishing an appropriate framework to support a future review of the Regional Air Plan that determines clear actions that will limit or avoid breaches with the NESAQ standards.
- 9.11 An additional point to note with respect to AIR-P1 is the wording recommended by the reporting officer includes the term 'more than minor'. I note that this is a term applied only very narrowly in an RMA sense, specifically in s95D (when making a notification determination) and in s104D when making a determination on non-complying activities. I do not consider it to be the appropriate threshold for discharges in a location with 'good' ambient air quality. As such, I consider the 'appropriateness test' for discharges in a location with 'good' ambient air quality should be whether the NESAQ standards will be breached.
- 9.12 Finally, an additional point to note with respect to AIR-P2 is that discharges from woodburners installed after 2005 (on properties less than 2ha) are prohibited<sup>115</sup> unless they meet the design standards and thermal efficiency requirements set out in Regulations 23 and 24 of the NESAQ. As such, there is no need to include this requirement in AIR-P2.
- 9.13 On this basis, I consider that further amendments to the policies are required. I have discussed and agreed amended wording for AIR-P1 and AIR-P2 with Ms Taylor (for Ravensdown) as follows:

*AIR-P1 – Maintain ~~good~~ ambient air quality*

*~~Where Good ambient air quality is at or better than the limits set, that air quality is maintained at least at the existing quality by only allowing discharges to air across Otago by:~~*

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<sup>114</sup> [https://environment.govt.nz/assets/Publications/Files/proposed-amendments-to-the-national-environmental-standards-for-air-quality-consultation-document\\_0.pdf](https://environment.govt.nz/assets/Publications/Files/proposed-amendments-to-the-national-environmental-standards-for-air-quality-consultation-document_0.pdf)

<sup>115</sup> National Environmental Standards for Air Quality 2004, Regulation 22



~~(1) ensuring discharges to air comply with ambient air quality limits where those limits have been set, and  
(2) where limits have not been set, only allowing discharges to air if the adverse effects of the discharge, including cumulative effects on ambient air quality are no more than minor and any limits are not exceeded~~

Otago's ambient air quality is, at a minimum, maintained, where ambient air quality standards are complied with, by allowing discharges to air where the discharge complies with relevant air quality standards, limits or guidelines.

AIR-P2 – Improve degraded ~~poor~~ ambient air quality

Degraded ~~Poor~~ ambient air quality is improved across Otago by:

- (1) ~~establishing, maintaining and enforcing~~ plan provisions that set limits actions and timeframes for improving ambient air quality, including by managing the spatial distribution of activities and transport, and
- (2) prioritising actions to reduce PM10 and PM2.5 concentrations in polluted airsheds, including phasing out existing domestic solid fuel burning appliances ~~and preventing any discharges from new domestic solid fuel burning appliances that do not comply with the standards set in the NESAQ.~~

### **AIR-P3**

- 9.14 Fonterra<sup>116</sup> sought amendments to AIR-P3 to provide greater clarity as to the level of effects that lower order plans should provide for. The reporting officer has recommended that the amendments sought by Fonterra be rejected<sup>117</sup>, stating: *'the intent of Policy AIR-P3 is to ensure the framework of the future Regional Air Plan provides a regime that enables discharges into air, where they do not result in adverse effects on the listed values. As discussed in the earlier sections of this report, use of the term 'adverse effects' without qualification sets a particularly low threshold. Given this, it is likely such activities may be authorised via a permitted or restricted discretionary activity framework in the future Regional Air Plan'*.
- 9.15 Firstly, if the air provisions are ultimately intended to be enabling (as noted by the reporting officer), then I consider that 'enable', rather than 'allow' is more appropriate (RMA) terminology.
- 9.16 Secondly, I do not understand the reporting officer's assertion that *'the term 'adverse effects' without qualification sets a particularly low threshold'*. Fonterra's submission sought to include a very clear qualification that discharges are enabled, unless the effects are significant. I consider that this is an appropriate policy response to AIR-O2 (in conjunction with additional amendments to AIR-P4 and AIR-P5, which I discuss further below). I support the following amendments to AIR-P3:

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<sup>116</sup> Submission 00233.028

<sup>117</sup> S42A Report, Chapter 7: AIR – Air, paragraph 79

*Allow Enable discharges to air provided they do not have significant adversely ~~a~~effects on human health, amenity values, and mana whenua values and the life supporting capacity of ecosystems.*

#### **AIR-P4**

- 9.17 Fonterra sought<sup>118</sup> to remove 'objectionable or offensive' from the policy as these subjective terms are determined by context, rather than strictly by science. The reporting officer initially recommended that this submission be rejected<sup>119</sup>, but in supplementary evidence amended their original position slightly.
- 9.18 I disagree with the reporting officer that 'offensive and objectionable' should form part of an 'avoid' policy, regardless of the amendment proposed in supplementary evidence and particularly in the context of the changes to AIR-P3 that I have recommended above. I consider that discharges with significant adverse effects are those that are noxious or dangerous (to human health, mana whenua values and the life supporting capacity of ecosystems), while those that are offensive or objectionable are less likely to be significant (on those values) and able to be managed. For clarity, I consider that offensive and objectionable discharges are most likely to affect amenity values (rather than the other values listed).
- 9.19 I consider 'offensive and objectionable' are subjective terms that are influenced by context, for example, a visitor to a dairy shed may find the odour to be offensive and/or objectionable, but for someone familiar to a rural environment the odour is to be expected and would be unlikely to cause offense. I consider the policy should be amended as follows:

*Avoid discharges to air that cause ~~offensive, objectionable,~~ noxious or dangerous effects on human health, mana whenua values and the life supporting capacity of ecosystems.*

- 9.20 I appreciate what the reporting officer was attempting to achieve by including the qualifier. However as worded, the officer is opening the door to the management of offensive and objectionable effects (i.e. avoid, remedy, mitigate) and as such, they can be addressed by Policy AIR-P5.

#### **AIR-P5**

- 9.21 Fonterra<sup>120</sup> sought amendments to AIR-P5 to clarify that that it is the 'adverse effects' of discharges that must be managed, including those that are offensive and objectionable. The reporting officer has recommended that this submission be accepted in part<sup>121</sup>.

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<sup>118</sup> Submission 00233.029

<sup>119</sup> S42A Report, Chapter 7: AIR – Air, paragraph 92

<sup>120</sup> Submission 00213.030

<sup>121</sup> S42A Report, Chapter 7: AIR – Air, paragraph 103

- 9.22 I support the reporting officer recommendation to amend 'effects' to 'adverse effects', as it is the adverse effects of discharges that must be managed.
- 9.23 I am comfortable if the reporting officer does not consider that including 'offensive and objectionable' discharges is necessary. I understand that the submission from Fonterra to include these types of discharges in AIR-P5 was to 'cover these off' following the submission to delete them from AIR-P4. Given that the phrase is not explicitly referenced in the objectives, I do not consider that it needs to be specifically referenced in the policies.
- 9.24 I support the other minor amendments to AIR-P5.

#### **AIR-P6**

- 9.25 Fonterra<sup>122</sup> sought an amendment to this policy seeking that 'significant' adverse effects be avoided. The reporting officer has recommended that this submission be rejected<sup>123</sup> stating: *'The primary theme within the submissions seeking amendments to this provision relate to the use of 'avoid' in the context of discharges that effect mana whenua values. In my opinion this is for two reasons. The first is that there is a general aversion to use of the word 'avoid' unless it forms part of the phrase 'avoid, remedy or mitigate', because it leaves no room beyond preventing something from happening. The second reason is that there is a lack of clarity concerning mana whenua values in the context of discharges to air, what this provision means for existing discharges, and what the lack of clarity will mean retrospectively when the PORPS becomes operative'*.
- 9.26 I disagree with the reporting officer's summary that there is a lack of understanding of mana whenua values. However, I agree with the reporting officer that the use of the term avoid 'leaves no room beyond preventing it from happening'. Clearly the reporting officer has no concern with this outcome; however I consider that where the extent or level of adverse effects are unqualified (as is the case in the wording proposed for AIR-P6) then 'avoid' is a term that should be used sparingly. I am comfortable with the use of 'avoid' in this case provided the threshold of effects is revised to significant (conversely, if 'adverse effects' were to remain unqualified, then I consider that the policy should be prefaced with 'manage').
- 9.27 I consider that the policy should be amended to include only significant adverse effects as follows:

*Avoid discharges to air that **have significant adversely aeffects on** mana whenua values by having particular regard to values and areas of significance to mana whenua, including wāhi tupuna, wāhi tapu and wāhi taoka.*

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<sup>122</sup> Submission 00213.031

<sup>123</sup> S42A Report, Chapter 7: AIR – Air, paragraph 115

## **AIR-PNEW**

- 9.28 HortNZ<sup>124</sup> are seeking a new AIR policy be included, specifically: *Avoid locating new sensitive activities near existing activities which are permitted or consented to discharge to air.* The reporting officer has recommended that this submission be rejected<sup>125</sup> on the basis that *'the specifics of addressing reverse sensitivity matters are too detailed for the PORPS'*.
- 9.29 Given the significant impact that reverse sensitivity effects can have on both existing activities and sensitive activities (as receivers), I consider it appropriate for the PORPS to address the matter of reverse sensitivity. I note that explicit reference to reverse sensitivity is a position widely adopted by other regional councils and has already been addressed in other chapters of the PORPS, but there is a notable absence of such provisions from the AIR chapter.
- 9.30 I consider an explicit policy in the PORPS will ensure that regional and district plans appropriately account for all discharges to air (noise, odour, spray drift, dust) that potentially giving rise to reverse sensitivity effects.
- 9.31 I support the new policy proposed by HortNZ and consider that it should be adopted into the PORPS.

## **AIR-M2**

- 9.32 Fonterra<sup>126</sup> sought a number of amendments to AIR-M2 in line with their submissions on other AIR provisions. The reporting officer has recommended that all of Fonterra's amendments to AIR-M2 be rejected<sup>127</sup>. The reporting officer has recommended a number of changes to the method in line with other submissions.
- 9.33 I consider that further amendments to AIR-M2 are required to address the matters raised in the Fonterra submission and align with my recommendations set out in my evidence, specially:
- a. In line with paragraphs 9.17 – 9.20 above, I do not consider that offensive and objectionable effects need to be avoided. I consider that the reporting officer has also conceded this by amending AIR-P4 to provide for avoid as a 'first priority' meaning that the ability to remedy or mitigate offensive or objectionable effects is available to the applicant, i.e. managing the effects. I therefore consider that these effects can be removed from AIR-P4 and AIR-P6 relied upon. Accordingly, they do not need to be referred to in AIR-M2(1).
  - b. The PORPS needs to make it explicit that the Regional Air Plan must move to establish actions that will maintain good ambient air quality and

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<sup>124</sup> Submission 00236.047

<sup>125</sup> S42A Report, Chapter 7: AIR – Air, paragraph 14

<sup>126</sup> Submission 00233.032

<sup>127</sup> S42A Report, Chapter 7: AIR – Air, paragraphs 134, 135 and 137

improve degraded ambient air quality rather than establishing unnecessary limits to replace the NESAQ.

- c. It is unclear what is meant by AIR-M2(3). I have provided my thoughts in the amendments below.
- d. I consider it inappropriate to 'give effect' to a non-statutory document which has not been subject to a Schedule 1 participation process. AIR-M2(5) should be deleted.
- e. I generally support the inclusion of AIR-M2(6), although as set out in paragraphs 9.25 – 9.27 above, only significant effects should be avoided.

9.34 My recommended changes to AIR-M2 are as follows (in red):

*No later than 31 December 2024, Otago Regional Council must prepare or amend and maintain its regional plans to:*

- (1) *avoid ~~offensive, objectionable, the effects of noxious or dangerous~~ discharges to air on human health, mana whenua values and the life supporting capacity of ecosystems that cause noxious or dangerous effects and avoid, as the first priority, discharges to air that cause offensive or objectionable effects,*
- (1A) *set limits (including ambient air quality standards) establish actions to maintain ambient air quality in accordance with AIR-P1, and improve ambient air quality in accordance with AIR-P2,*
- (2) *include provisions to ~~mitigate~~ manage the adverse effects from discharges to air that have adverse effects beyond the boundary of the property of origin,*
- (3) *~~implement the prioritisation of the~~ actions set out in AIR-P2 to reduce PM<sub>10</sub> and PM<sub>2.5</sub> concentrations in polluted airsheds,*
- (4) *~~mitigate~~ manage the adverse effects of discharges to air in areas adjacent to polluted airsheds where the discharge will adversely affect air quality in the polluted airshed, ~~and~~*
- (5) *~~give effect to the Air Quality Strategy for Otago and any subsequent amendments or updates, and~~*
- (6) *include measures to avoid significant adverse effects of discharges to air on mana whenua values and wāhi tupuna.*

### **AIR-M3**

9.35 Fonterra<sup>128</sup> sought amendments to AIR-M3 to recognise that managing the interface between urban and rural areas will assist in achieving good ambient air quality to avoid reverse sensitivity effects. The reporting officer has recommended that the submission be rejected<sup>129</sup> on the basis that 'reverse sensitivity effects may be better suited in the Urban chapter of the pORPS'.

9.36 I disagree in part with the reporting officer. The exercise of 'directing urban form' includes the spatial form and extent of an urban area. Locating industrial zones immediately adjoining residential zones and/or pushing urban edges

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<sup>128</sup> Submission 00213.033

<sup>129</sup> S42A Report, Chapter 7: AIR – Air, paragraph 151

towards rural activities, or rural based activities, that are known to discharge to air will lower the ambient air quality within the residential / urban area. It is therefore appropriate to manage the interface (including minimising or avoiding the extent of the interface) between sensitive urban activities and industrial, rural or rural based activities that discharge to air. I therefore consider that AIR-M3 should manage the interface between incompatible activities, rather than reverse sensitivity effects.

9.37 I consider that AIR-M3 should be amended as follows:

*No later than 31 December 2029, territorial authorities must prepare or amend and maintain their district plans to include provisions that direct an urban form that assists in achieving good air quality by:*

...

*(3) managing the interface between incompatible activities, specifically air discharging activities and sensitive activities*

## **10. LAND AND FRESHWATER (LF)**

### **LF-WAI-P3**

10.1 Fonterra<sup>130</sup> sought amendments to LF-WAI-P3(4) to better recognise that the use and development of land and water maintains the health of the water. The reporting officer has recommended that this submission be rejected<sup>131</sup>.

10.2 I consider that it is an entirely incomplete picture to not acknowledge that the use of land and freshwater is necessary to maintain and enhance the health and wellbeing of freshwater. I acknowledge the reporting officer's comments that the clause is to give effect to Policy 3 in the NPSFM, but as drafted the proposed policy (as a whole) does not account for freshwater use and I consider that this is a substantial oversight, particularly as use is provided for in two of the three Objective 2.1 priorities in the NPSFM.

10.3 I consider that the clause should be amended as follows:

...

*manages the effects of the use and development of land and freshwater to maintain or enhance the health and well-being of freshwater, ~~and~~ coastal water and associated ecosystems,*

...

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<sup>130</sup> Submission 00233.034

<sup>131</sup> S42A Report, Chapter 9: Land and freshwater, paragraphs 228 and 229

#### **LF-WAI-P4**

- 10.4 Fonterra made a further submission<sup>132</sup> supporting Federated Farmers submission<sup>133</sup> seeking to delete this policy entirely. The reporting officer has recommended that Federated Farmers submission be rejected<sup>134</sup> (and consequently Fonterra's further submission) on the basis that *'...this policy is instrumental to the architecture of the LF – Land and freshwater chapter because it clearly sets out that all subsequent provisions must be interpreted in a way that gives effect to the expression of Te Mana o te Wai in Otago'*.
- 10.5 I do not agree with the reporting officer's recommendation. The hierarchy of actions required by the RMA when developing and implementing the PORPS is that firstly, the PORPS 'gives effect' to the NPSFM; which it will do so through LF-WAI-O1 and LF-WAI-P1 to -P3 (with amendments arising as a consequence of this Schedule 1 process). Subsequently, as part of the implementation and decision-making process, a decision maker must 'have regard to' national policy statements and regional policy statements (amongst other relevant statutory and regulatory documents) pursuant to s104 of the RMA.
- 10.6 I consider that s104 of the RMA and IM-P1 of the PORPS (as amended, and subject to the further amendments I have recommended in paragraph 8.10 of my evidence) provide the necessary framework for considering applications where the PORPS is a relevant document in the decision-making process. LF-WAI-P4 seeks to extend the statutory / regulatory weight of LF-WAI-O1 and LF-WAI-P1 to -P3. I do not support LF-WAI-P4 and consider that it should be deleted entirely.

#### **LF-FW-P13**

- 10.7 Fonterra<sup>135</sup> sought clarification on the term 'water quality standards' used in LF-WAI-P13(3) (and LF-WAI-P15, which will now be covered under a separate process). The reporting officer has recommended that this submission be rejected<sup>136</sup> on the basis that *the term "water quality standards" is a commonly used term that is generally well-understood. The NPSFM sets out in detail the requirements of the NOF process and I do not consider it is necessary to repeat that in this policy or in a supporting definition.*
- 10.8 I disagree with the reporting officer that 'water quality standards' is a 'commonly used term' and I note that it is not used at all in the NPSFM. Rather, the NPSFM specifies (at Clause 3.7(2)(c)) that 'environmental outcomes' are to be set for each identified value, with further refinement of those outcomes set out in Clauses 3.7(2)(d) and (e).
- 10.9 If the intent of LF-FW-P13(3) is to incorporate reference to the NOF process into the PORPS, then I think the clause should be amended to reflect that intent. I

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<sup>132</sup> Further submission FS00233.031

<sup>133</sup> Submission 00239.073

<sup>134</sup> S42A Report, Chapter 9: Land and freshwater, paragraphs 256

<sup>135</sup> Submission 00233.038

<sup>136</sup> S42A Report, Chapter 9: Land and freshwater, paragraphs 1108

consider that the policy focus can be either on 'environmental outcomes' (Clause 3.7(2)(c)) or on target criteria for achieving those outcomes (Clauses 3.7(2)(d) and (e)), as follows:

...  
*establishing environmental outcomes, in accordance with the National Objectives Framework prescribed in the NPSFM, flow and level regimes and water quality standards that support the health and well-being of the water body,*  
...

Or

...  
*establishing target attribute states, environmental flows and levels regimes and other criteria water quality standards that support the health and well-being of the water body,*  
...

- 10.10 I would be comfortable with either amendment, as either more correctly reflect the NPSFM NOF process (than the current wording of LF-FW-P13(3)) and does not introduce unnecessary or unknown terms.

#### **LF-LS-P19**

- 10.11 Fonterra made a further submission<sup>137</sup> in support of the submission<sup>138</sup> by Rural Contractors NZ seeking that LF-LS-P19(2) be amended to provide for *activities which support, service or are dependent on primary production, and have an operational need to locate in rural areas*. The reporting officer has recommended that this submission is rejected<sup>139</sup> (and consequently Fonterra's further submission also be rejected) on the basis that *the operational need for those [rural industry] activities to be located in rural areas is managed by UFD-P7*.

- 10.12 On this basis, the wording of LF-LS-P19(2) recommended by the reporting officer states: *'prioritising the use of highly productive land for land-based primary production ~~food and fibre production primary production ahead of other land uses, except as provided by EIT INFP12 and EIT INF P16,911 and...~~*

- 10.13 I consider that UFD-O4 and UFD-P7 are the appropriate provisions for managing the development of highly productive land in rural areas. I note that the most recent versions of UFD-O4(2) and UFD-P7(2) do not account for activities that have an operational or functional need to locate on highly productive land.

- 10.14 I am comfortable with the amended wording of LF-LS-P19(2) as this is consistent with the NPSHPL, specifically Clause 3.12(1)(a). However, as the word 'prioritise' does not suggest that the use of highly productive land is necessarily exclusive, I consider that activities that have an operational or

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<sup>137</sup> Further submission FS00233.038

<sup>138</sup> Submission 00410.005

<sup>139</sup> S42A Report, Chapter 9: Land and freshwater, paragraphs 1522



functional need to locate on highly productive land are provided for in UFD-P7(2) as a second priority. I discuss this further in paragraph 12.31 below.

### **LF-LS-M14**

- 10.15 I support the reporting officer's recommendation<sup>140</sup> to reject the submission by Greenpeace<sup>141</sup> to include a clause in LF-LS-M14 to phase out dairy farming and include a sinking cap on synthetic nitrogen fertiliser to phase it out by 2024. I do not consider that the PORPS process is the forum for discussing such changes.

### **New freshwater provisions**

- 10.16 Federated Farmers<sup>142</sup> sought to include a new LF-WAI method to set out a 'practical' approach to implementing Te Mana o te Wai. This submission was supported by Fonterra<sup>143</sup>. The reporting officer has recommended that this submission be rejected<sup>144</sup>. I agree with the submission of Federated Farmers to the extent that my interpretation of their submission is that there must be an expectation that Council have a very active role in implementing Te Mana o te Wai and support the community through an evolving regulatory period that is creating substantial uncertainty for landowners and business owners. This will be achieved by the council actively gathering and disseminating cultural, scientific, social and economic information to assist parties navigate the process and providing support where needed through the transition. On this basis, I consider that there is much to be gained from including the new method to operate in conjunction with LF-WAI-M1 and I support the inclusion of the new method in the PORPS.
- 10.17 Federated Farmers<sup>145</sup> and Aotearoa Water Action (**AWA**)<sup>146</sup> both sought to include a new LF-WAI anticipated environmental result. These submissions were supported and opposed by Fonterra respectively<sup>147</sup>. The reporting officer has recommended that these submissions be rejected<sup>148</sup>. I consider that the new anticipated environmental result proposed by Federated Farmers has merit, although I am more inclined to think that the proposed provision seeks an outcome greater than what the LF-WAI provisions provide for. I consider that the new anticipated environmental result proposed by AWA ineffectively summarises Te Mana o te Wai and therefore is not appropriate for inclusion in the PORPS.

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<sup>140</sup> S42A Report, Chapter 9: Land and freshwater, paragraph 1668

<sup>141</sup> Submission 00407.051

<sup>142</sup> Submission 00239.075

<sup>143</sup> Further submission FS00233.024

<sup>144</sup> S42A Report, Chapter 9: Land and freshwater, paragraphs 276 - 279

<sup>145</sup> Submission 00239.076

<sup>146</sup> Submission 00502.004

<sup>147</sup> Further submission FS00233.025 and FS00233.026

<sup>148</sup> S42A Report, Chapter 9: Land and freshwater, paragraphs 312

10.18 Royal Forest and Bird Protection Society of New Zealand Incorporated (**Forest and Bird**)<sup>149</sup> and Otago Fish & Game Council (**Fish and Game**)<sup>150</sup> sought to include a new region-wide catchment vision. Fonterra opposed the submissions<sup>151</sup>. The reporting officer has recommended that these submissions be rejected<sup>152</sup>. I agree with the reporting that a region wide vision is inconsistent with Clause 3.3(2)(a) of the NPSFM, which states '*Long-term visions: (a) may be set at FMU, part of an FMU, or catchment level...*'.

## 11. ENERGY, INFRASTRUCTURE AND TRANSPORT (EIT)

### EIT-EN-P5

11.1 Ravensdown<sup>153</sup> sought to amend EIT-EN-P5 to amend the direction of the policy from 'avoid' to 'restrict'. Fonterra supported this submission<sup>154</sup>. The reporting officer has recommended that the submission be rejected<sup>155</sup> on the basis that '*a strong direction is required to assist with the achievement of a move towards net zero carbon emissions by 2050, which is set out in the objectives. To this extent, new non-renewable energy generation is undesirable and needs to be avoided*'.

11.2 I disagree with the reporting officer's recommendation. I consider that an 'avoid' policy is too stringent a threshold, as it effectively means to prohibit the activity. I do not consider that the language of EIT-EN-O1 and EIT-EN-O2 (as amended) sufficiently warrants an 'avoid' policy for non-renewable energy. Specifically:

- a. EIT-EN-O1 seeks for Otago's communities and economy to be 'supported by renewable energy generation'. I do not consider that this is an exclusive statement, whereby only renewable energy generation is expected.
- b. EIT-EN-O2 seeks to protect and maintain renewable energy generation and 'if practicable, maximise, within environmental limits'. I consider that potential constraints arising from environmental limits means that some allowance must be made for non-renewable energy generation.

11.3 I consider the following amendment is appropriate to EIT-EN-P5:

*~~Restrict~~ ~~Avoid~~ the development of non-renewable energy generation activities in Otago and facilitate the replacement of non-renewable energy sources, including the use of fossil fuels, in energy generation.*

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<sup>149</sup> Submission 00230.078

<sup>150</sup> Submission 00231.05

<sup>151</sup> Further submission FS00233.032 and FS00233.033

<sup>152</sup> S42A Report, Chapter 9: Land and freshwater, paragraphs 329 – 334

<sup>153</sup> Submission 00121.072

<sup>154</sup> Further submission FS00233.042

<sup>155</sup> S42A Report, Chapter 11: Energy, Infrastructure and Transport, paragraph 250

## 12. URBAN FORM AND DEVELOPMENT (UFD)

### **General comments**

- 12.1 I acknowledge the comments of the reporting officer<sup>156</sup> highlighting the relevance of the UFD chapter to rural areas of the region, specifically:

*The chapter is about Urban form, and Development. Recognising and providing for the primary use of rural areas is for rural activities does require managing urban and other sensitive activities. The National Planning Standards are relatively ambivalent on where 'rural' matters would reside, and we have determined that they are best located alongside urban issues in a chapter focused on the management of spatial relationships and interconnection and cumulative and the often irreversible effects arising from one land use replacing another.*

- 12.2 Having regard to this clarification, I have recommended changes to a number of UFD provisions to strengthen the policy framework relating to rural areas.

### **UFD-O2**

- 12.3 Fonterra<sup>157</sup> sought recognition of reverse sensitivity effects alongside incompatible activities in UFD-O2. The reporting officer has recommended that the submission be rejected<sup>158</sup> on the basis that *'the existing wording is considered to capture reverse sensitivity as well as other potential impacts between all activities, in all places and times in the region'*.
- 12.4 I disagree with the assertion of the reporting officer that *the 'existing wording is considered to capture reverse sensitivity'*. I consider that conflict between incompatible activities and avoiding reverse sensitivity effects do not amount to the same thing. I consider that reverse sensitivity effects are the effects on activities that (typically) generate noise or discharge to air in this case due to locating sensitive activities in close proximity (complaints, restrictions). Whereas the term incompatible activities is generally applied to situations where the effects of an activity would affect another (odour, noise). I am not suggesting that the two terms are mutually exclusive, but I do consider that they are distinguishable and both warrant mention in UFD-O2.
- 12.5 Following consideration of the intent of the UFD chapter, I consider that the amendment to UFD-O2(6) should not be limited to industrial activities as reverse sensitivity effects are also an issue at the urban/rural interface and these also need to be accounted for.

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<sup>156</sup> S42A Report, Chapter 15: UFD – Urban form and development, paragraphs 149 – 151

<sup>157</sup> Submission 00233.040

<sup>158</sup> S42A Report, Chapter 15: UFD – Urban form and development, paragraph 48

12.6 Finally, given the discussion in Section 4 of my evidence, it is appropriate to recognise regionally significant industry when considering how Otago's urban centres will development and change.

12.7 I therefore consider that UFD-O2 should be amended as follows:

*The development and change of Otago's urban areas:*

...

(6) *minimises conflict between incompatible activities and protects activities from the effects of reverse sensitivity*

...

*(9B) facilitates the safe and efficient ongoing operation and development of regionally significant industry,*

### **UFD-O3**

12.8 Fonterra did not make a submission on UFD-O3, but as a consequence of changes I have recommended to UFD-O4 (which Fonterra did submit on), I consider that amendments to UFD-O3 are required.

12.9 As set out below, UFD-O4(3) (as proposed) makes reference to 'urban expansion'. I do not consider it is appropriate for UFD-O4(3) to refer to urban expansion as it is subject to the framework prescribed by UFD-O3 and UFD-P1 and is strategically different to inappropriate urban encroachment from unplanned activity (which is what UFD-O4(3) should be focussed).

12.10 I consider that UFD-O3 currently lacks suitable recognition of the impact of urban expansion on rural areas. Historically, rural areas have been the 'loser' in the game of urban expansion vs primary production and, I acknowledge, in many situations this may be the 'best' outcome on balance. However, I consider that, along with mana whenua and development capacity considerations, strategic planning decisions also ensure that effects on rural activities and communities are managed and strategic planning decisions have particular regard to the level of investment already in place on rural land.

12.11 I consider that UFD-O3 should be amended as follows (in red):

*Strategic planning is undertaken in advance of significant development, expansion or redevelopment of urban areas to ensure that:*

(1) *there is at least sufficient development capacity supported by integrated infrastructure provision for Otago's housing and business needs in the short, medium and long term,*

~~(2) *development is located, designed and delivered in a way and at a rate that recognises and provides for locationally relevant regionally significant features and values identified by this RPS, and*~~

(3) *the involvement of mana whenua is facilitated, and their values and aspirations are provided for.*

(4) *Effects on rural activities and communities are managed, having particular regard to the level of investment already in place on rural land.*

12.12 The amendment to UFD-O3 is implemented by UFD-P1(8A), which I comment on further below.

#### **UFD-O4**

12.13 Fonterra<sup>159</sup> submitted in support of a submission by Ravensdown<sup>160</sup> seeking amendment to UFD-O4(2). The s42A reporting officer broadly accepted all submissions relating to UFD-O4(2)<sup>161</sup>. A different reporting officer prepared supplementary evidence on the UFD chapter and has recommended amendments<sup>162</sup> to UFD-O4 to improve its direction. The latest version of UFD-O4 that is recommended by the reporting officer reads:

*Development in Otago's rural areas occurs in a way that:*

- ~~(1) — avoids impacts on significant values and features identified in this RPS,~~
  - (2) *avoids as the first priority, highly productive land ~~land and soils identified as highly productive by LF-LS-P19 unless there is an operational need or functional need for the development to be located in rural areas,~~*
  - (3) *only provides for urban expansion, rural lifestyle ~~and rural residential~~ development and the establishment of ~~sensitive~~ activities that are sensitive to primary production and rural industry, in locations identified through strategic planning or zoned within district plans as suitable for such development, and*
  - (4) *outside of areas identified in (3), ~~maintains and enhances~~ provides for the ongoing use of rural areas for primary production, supported by rural industry in appropriate locations, and facilitates ensures that other activities ~~that have an operational need or functional need to locate in rural areas, that will do not~~ compromise the natural and physical resources that support the productive capacity, rural character, and long-term viability of the rural sector and rural communities-, and*
- (4A) provides for the use and development of land in rural areas by Kāi Tahu for papakāika, kāika, nohoaka, marae, and marae related activities.

12.14 I make the following comments on the recommended amendments to UFD-O4:

- a. I support the deletion of UFD-O4(1) as I agree with the reporting officer that the PORPS is intended to be read as a whole<sup>163</sup> (with conflicts between provisions being resolved by reference to higher order documents as needed, as directed by IM-P1).

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<sup>159</sup> Further submission FS00233.047

<sup>160</sup> Submission 00121.099

<sup>161</sup> S42A Report, Chapter 15: UFD – Urban form and development, paragraphs 222 – 224

<sup>162</sup> Supplementary evidence, Chapter 15: UFD – Urban form and development, paragraphs 15 – 19

<sup>163</sup> Supplementary evidence, Chapter 15: UFD – Urban form and development, paragraph 10

- b. I support the wording of UFD-O4(2) on the basis that LF-LS-P19(2) 'prioritises' the use of land for land based primary production, which in my opinion is not an exclusive statement of use. I consider that UFD-O4(2) (implemented by UFD-P7(2)) are the appropriate provisions for establishing a second threshold for the use and development of highly productive land. The wording of 'avoids as a priority' in UFD-O4(2) sets up UFD-P7(2) for defining those activities that may be allowed to establish on highly productive land (as a second priority to land based primary production).
- c. From a logical perspective, I consider the UFD-O4(4) should be listed ahead of UFD-O4(3) as the objective relates to the use of rural areas and rural activities should be prioritised ahead of any discussion on urban activities.
- d. I generally support UFD-O4(4), but consider minor amendments are required (as shown below).
- e. I disagree with the wording of UFD-O4(3). I do not consider that the policy should refer to 'urban expansion'. I consider that urban expansion is subject to a framework prescribed by UFD-O3, UFD-P1 and -P4 and is strategically different to inappropriate urban encroachment from unplanned activity.
  - a. Furthermore, I consider that rural lifestyle development and sensitive activities should be avoided in locations that compromise the natural and physical resources that support the productive capacity, rural character, and long-term viability of the rural sector (including regionally significant industry based in rural locations) and rural communities.
- f. I refer to paragraphs 5.35 and 5.36 of my evidence where I disagree with the removal of the term 'sensitive activities' to be replaced with 'activities that are sensitive to primary production and rural industry'. I consider that the latter lacks direction and is therefore unhelpful for plan users.
- g. I have reservations about the unqualified nature of UFD-O4(4A). From a human health perspective, I consider that papakāika, kāika, nohoaka, marae, and marae related activities have the potential to be incompatible with (some) rural activities. I therefore consider that some qualification of this objective is required to protect human health.

12.15 The amendments I recommend for UFD-O4 are as follows:

*Development in Otago's rural areas occurs in a way that:*

- ~~(1) avoids impacts on significant values and features identified in this RPS,~~
- (2) *avoids as the first priority, highly productive land and soils identified as highly productive by LF-LS-P19 to be located in rural areas,*

- (3) ~~outside of areas identified in (3), maintains and enhances~~ provides for the ongoing use of rural areas for primary production and, supported by rural industry, in appropriate locations, and facilitates ~~ensures that other activities that have an operational need or functional need to locate in rural areas, that will do not compromise the natural and physical resources that support the productive capacity, rural character, and long-term viability of the rural sector and rural communities., and~~
- (4) ~~only provides for urban expansion, avoids~~ rural lifestyle ~~and rural residential~~ development and the establishment of sensitive activities ~~that are sensitive to primary production and rural industry,~~ in locations ~~identified through strategic planning or zoned within district plans as suitable for such development, and,~~ that compromise the natural and physical resources that support the productive capacity, rural character, and long-term viability of the rural sector (including regionally significant industry based in rural locations) and rural communities, and
- (4A) provides for the use and development of land in rural areas by Kāi Tahu for papakāika, kāika, nohoaka, marae, and marae related activities in locations that minimise human harm from discharges to air from rural activities.

#### **UFD-P1**

12.16 Fonterra<sup>164</sup> submitted in support of a submission by Fulton Hogan Limited<sup>165</sup> seeking amendment to UFD-P1 to provide for consideration of reverse sensitivity effects as part of strategic planning processes. The reporting officer has recommended that the submission be accepted in part<sup>166</sup> noting 'the inclusion of the concept of reverse sensitivity, including on highly productive land will assist in making it clear that strategic planning will be a key means to manage these impacts'.

12.17 However, the reporting officer has (again) conflated the concept of reverse sensitivity and incompatible activities by proposing the following wording in response to submissions: 'identifies areas of potential conflict between incompatible activities and sets out the methods by which these are to be resolved'.

12.18 I consider that amendments are required to the proposed policy, specifically:

*Strategic planning processes, undertaken at an appropriate scale and detail, precede urban growth and development and:*

...

*(8A) identifies areas of potential conflict between incompatible activities and the potential for reverse sensitivity effects and sets out the methods by which these are to be avoided resolved.*

<sup>164</sup> Further submission FS00233.048

<sup>165</sup> Submission 00322.039

<sup>166</sup> S42A Report, Chapter 15: UFD – Urban form and development, paragraphs 245 and 246

12.19 I consider a stronger policy response is required to 'resolve' and have recommended 'avoided'. I do not think it is appropriate for people and communities to be exposed to potentially harmful effects, and I do not think it is necessary to complicate the ability for businesses to operate by locating sensitive receivers in close proximity.

#### **UFD-P2**

12.20 Fonterra<sup>167</sup> sought recognition for 'new and existing' commercial and industrial activities in UFD-P2(4). The reporting officer has recommended that the submission be rejected<sup>168</sup> on the basis that '*the clause is clear in its intent while also providing a pathway to UFD-P5, and UFD-P6 for additional detail*'.

12.21 Having reviewed UFD-P5 and UFD-P6, I am comfortable that potential barriers to new and existing commercial and industrial activities will be satisfactorily dealt with by UFD-P5 and UFD-P6 and no changes to UFD-P2(4) are required.

12.22 I also consider that UFD-P2(5) appropriately supports the efficient and effective functioning of commercial and industrial activities by ensuring that development capacity is appropriate.

#### **UFD-P3**

12.23 Fonterra did not make a submission on UFD-P3, but given the discussion in paragraph 12.14(e) in relation to UFD-O4(3), it is appropriate to also recognise regionally significant industry based in urban locations (for example, the Mosgiel distribution centre) that may be affected by intensification. I consider that the following clause should be added to UFD-P3:

~~Within Provide for intensification in urban areas intensification is enabled where, as a minimum, it:~~

...

*(2B) does not compromise the safe and efficient ongoing use of regionally significant industry*

...

#### **UFD-P4**

12.24 Fonterra<sup>169</sup> sought amendments to UFD-P4 to address reverse sensitivity effects at the urban / rural interface as a result of urban expansion. The s42A reporting officer recommended that the submission be accepted with appropriate amendments to UFD-P4(7)(a)<sup>170</sup>. A different reporting officer prepared supplementary evidence which recommended further changes to the policy, specifically:

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<sup>167</sup> Submission 00233.041

<sup>168</sup> S42A Report, Chapter 15: UFD – Urban form and development, paragraph 254

<sup>169</sup> Submission 00233.042

<sup>170</sup> S42A Report, Chapter 15: UFD – Urban form and development, paragraph 282(a)



Expansion of existing urban areas is facilitated where, at minimum, the expansion:

- (1) contributes to establishing or maintaining the qualities of a well-functioning urban environment,  
(1A) is identified by and undertaken consistent with strategic plans prepared in accordance with UFD-P1, or is required to address a shortfall identified in accordance with UFD-P2,
- (2) is logically and appropriately staged, and will not result in inefficient or sporadic patterns of settlement and residential growth,
- (3) is integrated efficiently and effectively with development infrastructure and additional infrastructure in a strategic, timely and co-ordinated way,  
(3A) does not compromise the safe and efficient ongoing use of nationally significant infrastructure and regionally significant infrastructure,
- (4) addresses issues of concern to iwi and hapū, including those identified in any relevant iwi planning documents,
- (5) ~~manages adverse effects on other values or resources identified by this RPS that require specific management or protection,~~
- (6) avoids, as the first priority, highly productive land, ~~identified in accordance with LF-LS-P19,~~
- (7) locates the new urban/rural zone boundary interface by considering:
  - (a) adverse effects, particularly reverse sensitivity, on existing activities in rural areas and existing or potential primary production productive or rural industry activities beyond the new boundary, and
  - (b) utilising key natural or built barriers or physical features, significant values or features identified in this RPS, or cadastral boundaries that will result in a permanent, logical and defensible long-term limit beyond which further urban expansion is demonstrably inappropriate and unlikely, such that provision for future development infrastructure expansion and connectivity beyond the new boundary does not need to be provided for, or
  - (c) ~~reflects a short or medium term, intermediate or temporary~~ utilising zoning or infrastructure servicing boundary that reflects a short or medium term, intermediate or temporary limit, where provision for future development infrastructure expansion and connectivity should not be foreclosed, even if further expansion is not currently anticipated.

12.25 I make the following comments on the amended wording of UFD-P4:

- a. There are minor phrasing corrections that will benefit understanding of the policy.
- b. The policy benefits with the addition of clauses relating to strategic planning, as this strongly ties the policy back to UFD-O2.
- c. I consider further refinement of UFD-P4(7)(a) is required to improve understanding and clarity.
- d. Given the discussion in Section 4 of my evidence, it is appropriate to recognise regionally significant industry based in rural locations (for example Stirling), which may be affected by urban expansion.

12.26 The amendments I recommend for UFD-P4 are as follows:

*Expansion of existing urban areas is facilitated where, ~~at~~ as a minimum, the expansion:*

- (1) *contributes to establishing or maintaining the qualities of a well-functioning urban environment,*  
(1A) is identified by and undertaken consistent with strategic plans prepared in accordance with UFD-P1, or is required to address a shortfall identified in accordance with UFD-P2,
- (2) *is logically and appropriately staged, and will not result in inefficient or sporadic patterns of settlement and residential growth,*
- (3) *is integrated efficiently and effectively with development infrastructure and additional infrastructure in a strategic, timely and co-ordinated way,*  
(3A) does not compromise the safe and efficient ongoing use of nationally significant infrastructure and regionally significant infrastructure,  
(3B) does not compromise the safe and efficient ongoing operation of regionally significant industry,
- (4) *addresses issues of concern to iwi and hapū, including those identified in any relevant iwi planning documents,*
- (5) ~~manages adverse effects on other values or resources identified by this RPS that require specific management or protection,~~
- (6) *avoids, as the first priority, highly productive land, identified in accordance with LF-LS-P19,*
- (7) *locates the new urban/rural zone boundary interface by considering:*
  - (a) considering adverse effects, particularly reverse sensitivity effects, on existing and permitted activities in rural areas and existing or potential primary production productive or and rural industry activities beyond at or near the new boundary, and

- (b) *utilising key natural or built barriers or physical features, significant values or features identified in this RPS, or cadastral boundaries that will result in a permanent, logical and defensible long-term limit beyond which further urban expansion is demonstrably inappropriate and unlikely, such that provision for future development infrastructure expansion and connectivity beyond the new boundary does not need to be provided for, or*
- (c) *~~reflects a short or medium term, intermediate or temporary~~ utilising zoning or infrastructure servicing boundary that reflects a short or medium term, intermediate or temporary limit, where provision for future development infrastructure expansion and connectivity should not be foreclosed, even if further expansion is not currently anticipated.*

### **UFD-P6**

- 12.27 Fonterra<sup>171</sup> sought changes to UFD-P6(3) to achieve greater protection for industrial activities. The reporting officer has recommended that the submission be accepted<sup>172</sup>.
- 12.28 I support the amendments to UFD-P6(3), specifically:

*Provide for industrial activities in urban areas by:*

...

- (5) *~~managing the establishment of non-industrial activities, in industrial zones,~~ by avoiding activities likely to result in reverse sensitivity effects on existing or potential industrial activities (particularly residential or retail activities except yard-based retail), or likely to result in an inefficient use of industrial zoned land or infrastructure, particularly where...*

- 12.29 I consider that the amendment to UFD-P6(3) protects industrial activities from incompatible activities and reverse sensitivity effects thereby safeguarding industrial operations.

### **UFD-P7**

- 12.30 Fonterra<sup>173</sup> sought for the policy to be retained as notified. The s42A reporting officer and the reporting officer that prepared supplementary evidence for the topic have recommended amendments to the policy, specifically:

*The management of rural areas:*

- (1) *~~provides for the maintenance and, wherever possible, enhancement of important features and values identified by this RPS;~~*
- (2) *~~outside areas identified in (1),~~ maintains the productive capacity, amenity and character of rural areas, as places where people live, work and*

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<sup>171</sup> Submission 00233.043

<sup>172</sup> S42A Report, Chapter 15: UFD – Urban form and development, paragraph 302

<sup>173</sup> Submission 00213.044

recreate and where a range of activities and services are required to support these rural functions, and provide for social and economic wellbeing within rural communities and the wider region,

- (3) ~~enables~~ prioritises land-based primary production food and fibre production primary production particularly on land or soils within areas identified as on highly productive land land in accordance with LF-LS-P19,
- (4) facilitates primary production, rural industry and supporting activities and recognises:
  - (a) the importance of mineral and aggregate resources for the provision of infrastructure and the social and economic well-being of Otago's communities, and
  - (b) the requirement for mineral and aggregate activities to be located where those resources are present,
- (5) ~~directs rural residential and~~ rural lifestyle development to areas zoned for that purpose in accordance with UFD-P8,
- (5A) provides for the use by Kai Tahu of Native Reserves and Te Ture Whenua Māori land Māori Land, for papakāiika, kāiika, nohoaka, marae and marae related activities, and otherwise provides for Kai Tahu use of rural areas and the resources and values they contain,
- (6) ~~restricts the establishment of residential activities, sensitive activities, and non-rural businesses non-rural activities~~ which could adversely affect, including by way of reverse sensitivity, or fragmentation, the productive capacity of highly productive land or existing or potential primary production and rural industry activities, unless those sensitive activities are undertaken in accordance with UFD-P4, UFD-P8 or UFD-P9 as relevant,
- ~~(7) otherwise limits the establishment of residential activities, sensitive activities, and non-rural businesses to those that can demonstrate:~~
  - ~~(a) an functional need or operational need to be located in rural areas, and~~
  - ~~(b) methods to avoid adverse effects, including by way of reverse sensitivity, on rural productive capacity and amenity values, or where avoidance is not practicable, remediation or mitigation, and~~
- ~~(7A) may place constraints on certain rural activities where necessary for the effective management of nationally significant infrastructure or regionally significant infrastructure.~~

12.31 I make the following comments on the amended wording of UFD-P7:

- a. I support clause UFD-P7(2). I consider it is appropriate to recognise the value of rural areas to the economic and social wellbeing of the region.

- b. I do not support clause UFD-P7(3). As set out in paragraphs 10.11 – 10.14, LF-LS-P19(2) states the intention (as directed by the NPSHPL) to prioritise land base primary production on highly productive land. I do not consider that this is an exclusive statement and therefore there is scope for other activities to establish with qualification/justification. As such (and consistent with the expectations of the reporting officer for the LF chapter), I consider that UFD-O4 and UFD-P7 are the appropriate provisions for managing the development of highly productive land in rural areas outside what is provided for in LF-LS-P19(2).
- c. UFD-O4(3) states that '*Development in Otago's rural areas occurs in a way that:...avoids as the first priority, highly productive land...*'. As a means of implementing this objective, I consider that UFD-P7(2) needs to confirm that activities with an operational or functional need to establish on highly productive land in rural areas as a second priority to land based primary production.
- d. I support the amendments to UFD-P7(4). But given the discussion in Section 4 of my evidence, it is appropriate to also provide for regionally significant industry that has an operational or functional need to locate in rural areas.
- e. I refer to paragraphs 5.35 and 5.36 of my evidence where I disagree with the removal of the term 'sensitive activities' to be replaced with 'non-rural activities'. I consider that the latter lacks direction and is therefore unhelpful for plan users. I consider that the term 'sensitive activities' should be reinstated in UFD-P7(6).

12.32 The amendments I recommend for UFD-P7 are as follows:

*The management of rural areas:*

- (1) ~~*provides for the maintenance and, wherever possible, enhancement of important features and values identified by this RPS,*~~
- (2) ~~*outside areas identified in (1), maintains the productive capacity, amenity and character of rural areas, as places where people live, work and recreate and where a range of activities and services are required to support these rural functions, and provide for social and economic wellbeing within rural communities and the wider region,*~~
- (3) ~~*enables prioritises land-based primary production food and fibre production primary production particularly on land or soils within areas identified as on highly productive land land in accordance with LF LS P19,*~~
- (4) *facilitates:*
  - i. ~~*primary production*~~ *and supporting activities.*
  - ii. *rural industry and supporting activities.*

- iii. regionally significant industry with a functional or operational need to locate in rural areas,

and recognises:

- (a) the importance of mineral and aggregate resources for the provision of infrastructure and the social and economic well-being of Otago's communities, and
- (b) the requirement for mineral and aggregate activities to be located where those resources are present,
- (5) ~~directs rural residential and rural lifestyle development to areas zoned for that purpose in accordance with UFD-P8,~~
- (5A) provides for the use by Kai Tahu of Native Reserves and Te Ture Whenua Māori land Māori Land, for papakāika, kāika, nohoaka, marae and marae related activities, and otherwise provides for Kai Tahu use of rural areas and the resources and values they contain,
- (6) ~~restricts the establishment of residential activities, sensitive activities, and non-rural businesses non-rural activities~~ which could adversely affect, including by way of reverse sensitivity, or fragmentation, the productive capacity of highly productive land, or ~~existing or potential and permitted~~ primary production and rural industry activities, unless those sensitive activities are undertaken in accordance with UFD-P4, UFD-P8 or UFD-P9 as relevant,
- ~~(7) otherwise limits the establishment of residential activities, sensitive activities, and non-rural businesses to those that can demonstrate:~~
- ~~(c) an functional need or operational need to be located in rural areas., and~~
- ~~(d) methods to avoid adverse effects, including by way of reverse sensitivity, on rural productive capacity and amenity values, or where avoidance is not practicable, remediation or mitigation, and~~
- (7A) may place constraints on certain rural activities where necessary for the effective management of nationally significant infrastructure or regionally significant infrastructure.

## **UFD-P8**

12.33 Fonterra<sup>174</sup> made a further submission on a submission by Fulton Hogan<sup>175</sup> seeking to amend UFD-P8 to properly account for reserve sensitivity effects. The

<sup>174</sup> Further submission FS00233.049

<sup>175</sup> Submission 00322.042

reporting officer recommended that the submission be accepted in part<sup>176</sup>. The current (amended) wording of the policy is:

*The establishment, development or expansion of rural lifestyle and rural residential zones only occurs where:*

- (1) *the land is adjacent to existing or planned urban areas and ready access to employment and services is available,*
- (2) *despite the direction in (1), it also avoids land identified for future urban development in a relevant plan or land reasonably likely to be required for its future urban development potential, where the rural lifestyle or rural residential development would foreclose or reduce efficient realisation of that urban development potential,*
- (3) *minimises impacts on existing primary production and rural industry and other rural activities, rural production potential, amenity values and the potential for reverse sensitivity effects to arise in adjoining rural production zones,*
- (4) *avoids, as the first priority, highly productive land, identified in accordance with LF-LSP169,*
- (5) *the suitability of the area to accommodate the proposed development is demonstrated, including*
  - (a) *capacity for servicing by existing or planned development infrastructure (including self-servicing requirements),*
  - (b) *particular regard is given to the individual and cumulative impacts of ~~domestic~~ water supply, wastewater disposal, and stormwater management including self-servicing, on the receiving or supplying environment and impacts on capacity of development infrastructure, if provided, to meet other planned urban area demand, ~~and~~*
  - (c) *likely future demands or implications for publicly funded services including emergency services and additional infrastructure, and*
  - (d) *does not compromise the safe and efficient ongoing use of nationally significant infrastructure or regionally significant infrastructure*
- ~~(6) *provides for the maintenance and wherever possible, enhancement, of important features and values identified by this RPS.*~~

12.34 I make the following comments on the amended wording of UFD-P8:

- a. There are minor phrasing corrections and the deletion of 'rural residential' that will benefit the understanding of the policy.

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<sup>176</sup> S42A Report, Chapter 15: UFD – Urban form and development, paragraph 383

- b. I consider that impacts on rural areas and rural activities should be avoided, rather than minimised. I do not consider that a productive land use should be curtailed by an unproductive, inefficient land use. I therefore consider that UFD-P8(3) should be amended.
- c. I do not consider it is appropriate for an unproductive, inefficient land use to have equal opportunity access to highly productive land as activities that have a functional and operational need to locate in rural areas. I therefore consider that UFD-P8(4) should be amended.
- d. Given the discussion in Section 4 of my evidence, it is appropriate that regionally significant industry is not compromised by rural lifestyle activities.

12.35 The amendments I recommend for UFD-P8 are as follows:

*The establishment, development or expansion of rural lifestyle ~~and rural residential~~ zones only occurs where:*

- (1) *the land is adjacent to existing or planned urban areas and ready access to employment and services is available,*
- (2) *~~despite in addition to~~ the direction in (1), it also avoids land identified for future urban development in a relevant plan or land reasonably likely to be required for its future urban development potential, where the rural lifestyle ~~or rural residential~~ development would foreclose or reduce efficient realisation of that urban development potential,*
- (3) *~~minimises avoids~~ impacts on existing primary production and rural industry and other rural activities, rural production potential, amenity values and the potential for reverse sensitivity effects ~~to arise~~ in adjoining rural production zones,*
- (4) *avoids, ~~as the first priority,~~ highly productive land, identified in accordance with ~~LF-LSP169,~~*
- (5) *the suitability of the area to accommodate the proposed development is demonstrated, including*
  - (e) *capacity for servicing by existing or planned development infrastructure (including self-servicing requirements),*
  - (f) *particular regard is given to the individual and cumulative impacts of ~~domestic~~ water supply, wastewater disposal, and stormwater management including self-servicing, on the receiving or supplying environment and impacts on capacity of development infrastructure, if provided, to meet other planned urban area demand, ~~and~~*
  - (g) *likely future demands or implications for publicly funded services including emergency services and additional infrastructure, ~~and~~*



(h) does not compromise the safe and efficient ongoing use of nationally significant infrastructure or regionally significant infrastructure, and

(i) does not compromise the safe and efficient ongoing use of regionally significant industry.

~~(6) provides for the maintenance and wherever possible, enhancement, of important features and values identified by this RPS.~~

## **UFD-M2**

12.36 Fonterra<sup>177</sup> made a further submission on a submission by Fulton Hogan<sup>178</sup> seeking to amend UFD-P8 to properly account for reserve sensitivity effects. The reporting officer has recommended that the submission be rejected on the basis that 'Fulton Hogan's request to replace minimise with avoid in clause 3(e) is, in the context of urban development and particularly intensification, impractical in all but the most significant cases, for example in the case of nationally or regionally significant infrastructure as requested by the Fuel Companies'. The current (amended) wording of the policy is:

*Territorial authorities must prepare or amend their district plans as soon as practicable, and maintain thereafter, to:*

(1) *identify and provide for urban expansion and intensification, to occur in accordance with:*

(a) *any adopted future development strategy for the relevant district or region, which must be completed in time to inform the 2024 Long Term Plan, or*

(b) *where there is no future development strategy, a local authority adopted strategic plan developed in accordance with UFD-P1, for the relevant area, district or region,*

(2) *in accordance with any required Housing and Business Development Capacity Assessments or monitoring, including any competitiveness margin, ensure there is always at least sufficient development capacity that is feasible and likely to be taken up and, for Tier 2 urban environments, at a minimum meets the bottom lines for housing in APP-10, and meets the identified land size and locational needs of the commercial and industrial sectors, and where there is a shortage, respond in accordance with UFD-P2,*

(3) *ensure that urban development is designed to:*

(a) *achieve a built form that relates well to its surrounding environment, ~~including by identifying and managing impacts of urban development on values and resources identified in this RPS,~~*

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<sup>177</sup> Further submission FS00233.050

<sup>178</sup> Submission 00322.043

- (b) *provide for a diverse range of housing, commercial activities, industrial and service activities, social and cultural opportunities,*
- (c) *achieve an efficient use of land, energy, water and infrastructure,*
- (d) *promote the use of water sensitive design wherever practicable,*
- (e) *minimise the potential for reverse sensitivity effects to arise, by managing the location of incompatible activities, within the urban area, at the rural-urban interface, and in rural areas, ~~and~~*
- (ea) avoid the potential for reverse sensitivity effects on nationally significant infrastructure and regionally significant infrastructure, and
- (f) *reduce the adverse effects of Otago’s cooler winter climate through designing new subdivision and development to maximise passive winter solar gain and winter heat retention, including through roading, lot size, dimensions, layout and orientation,*
- (4) *identify and provide for locations that are suitable for urban intensification in accordance with UFD-P2~~3~~,*
- (5) *identify and provide for locations that are suitable for urban expansion, if any, in accordance with UFD-P3~~4~~,*
- (6) *identify and provide for commercial activities in accordance with UFD-P5,*
- (7) *identify and provide for industrial activities in accordance with UFD-P6,*
- (8) *manage development in rural areas in accordance with UFD-P7,*
- (9) *manage rural residential ~~and rural lifestyle~~ activities in rural areas in accordance with UFD-P8,*
- (10) *provide for papakāika, kāika, nohoaka, ~~and~~ marae and marae related activities, in accordance with UFD-P9, and*
- (11) *must involve mana whenua and provide opportunities for iwi, hapū and whānau involvement in planning processes, including in decision making, to ensure provision is made for their needs and aspirations, and cultural practices and values and ensure the requirements of the MW chapter are met, and the issues and values identified in RMIA are recognised and provided for at the local level-, and*
- (11A) ensure the design and maintenance of places and spaces, including streets, open spaces, public buildings and publicly accessible spaces so that they are safe, attractive, accessible and usable by everyone in the community.

12.37 I make the following comments on the amended wording of UFD-M2:

- a. The reporting officer has advised that it is not necessary to 'avoid' reverse sensitivity effects on rural activities and that this threshold of effect management should be 'saved' for nationally or regionally significant infrastructure. I disagree with the reporting officer. As set out in the evidence of Ms O'Rourke<sup>179</sup>, reverse sensitivity is a significant issue for Fonterra's sites around New Zealand. The likelihood of such effects is increased with every new (typically rural lifestyle) development that occurs in close proximity and it becomes particularly difficult for Fonterra when seeking resource consents for their sites, with increased consultation and potential for objection. I consider it unreasonable that an unproductive, inefficient land use is afforded any lenience on this issue.
- b. Given the discussion in Section 4 of my evidence, it is appropriate that regionally significant industry is not compromised by rural lifestyle activities and that the potential for reverse sensitivity effects is avoided.

12.38 The amendments I recommend for UFD-M2 are as follows:

*Territorial authorities must prepare or amend their district plans as soon as practicable, and maintain thereafter, to:*

...

(e) *minimise avoid the potential for reverse sensitivity effects ~~to arise~~, by managing the location of incompatible activities, within the urban area, at the rural-urban interface, and in rural areas, and*

...

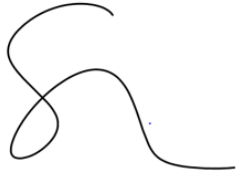
(eb) *avoid the potential for reverse sensitivity effects on regionally significant industry, and*

### **13. CONCLUSION**

- 13.1 I consider the PORPS should make provision for regionally significant industry by way of a new definition and a suitable policy framework to protect such activities from urban encroachment.
- 13.2 I consider that amendments are needed to the PORPS to ensure the integrated management of natural and physical resources in line with the RMA and national direction, including: the purpose, the Definitions, the SRMR, IM, AIR, LF, EIT and UFD chapters.

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<sup>179</sup> Statement of Evidence, Ms Suzanne O'Rourke, paragraphs 61 – 68



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Susannah Vrena Tait

23 November 2022

## APPENDIX A

1. My name is Susannah Vrena Tait. I am a Consultant Planner and Partner at Planz Consultants Limited.
2. I hold Bachelor of Science and Master of Applied Science degrees. I am a full Member of the New Zealand Planning Institute.
3. I have been employed in the practice of planning and resource management for approximately 20 years both in New Zealand and Australia.
4. I have been involved in a number of Plan Review / Amendment processes throughout the country, including:
  - The formulation of draft District Plans provisions for the Kaipara and Timaru District Councils, including urban growth recommendations for Timaru District.
  - The preparation and review of proposed District Plans for the Selwyn and Waikato District Councils (including s32 and s42A reports respectively).
  - The review (including preparation of submissions and evidence) of proposed Unitary Plans on behalf of private clients, including the Auckland Plan and the Marlborough Unitary Plan (the latter for Fonterra).
  - The review (including preparation of submissions and evidence) of Proposed District Plans on behalf of Fonterra and other private clients including the Whangarei, Selwyn and Timaru District Plans.
  - The review (including preparation of submissions and evidence) of Proposed Regional Plans on behalf of Fonterra including the Southland and Bay of Plenty Regional Air Plans.
  - The review (including preparation of submissions and evidence) of Plan Change 5 to the Hamilton City Plan on behalf of a government client.
  - The preparation of a Planning Scheme Amendment (in Victoria, Australia) on behalf of the Wellington Shire Council and the (State) Department of Planning and Community Development.
5. I have also had planning involvement with the ongoing stormwater discharges at Fonterra's Hautapu site.