

Before the Independent Hearings Panel

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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

*submitter:* **Fonterra Limited**  
*Submitter 233*

Statement of Evidence of Suzanne Patricia O'Rourke (Company)

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Dated: 23 November 2022

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Reference: B G Williams (ben.williams@chapmantripp.com)  
K I G Jacomb (Kirsty.jacomb@chapmantripp.com)

chapmantripp.com  
T +64 3 353 4130  
F +64 3 365 4587

PO Box 2510  
Christchurch 8140  
New Zealand

Auckland  
Wellington  
Christchurch



## **STATEMENT OF EVIDENCE OF SUZANNE O’ROURKE**

### **INTRODUCTION**

- 1 My full name is Suzanne Patricia O’Rourke.
- 2 I hold a Bachelors of Arts (Honours) from Canterbury University and a Postgraduate Diploma in Resource and Environmental Planning from Waikato University.
- 3 I have been working in the resource management field for 23 years.
- 4 I joined Fonterra as the National Environmental Policy Manager in November 2021. My role is to manage Fonterra’s environmental policy portfolio for its manufacturing and logistics activities across New Zealand and lead its involvement in Central government, Regional and District policy and planning development processes.
- 5 Prior to this I was employed for six years as the Team Leader, Coasts & Inland Waters at Waikato Regional Council with responsibility for reviewing and approving resource consent applications within the Coastal Marine Area under the Waikato Regional Coastal Plan and in waterways under the Waikato Regional Plan. I also oversaw monitoring, compliance, and enforcement functions for all activities within these environments. For 10 years before this I was the Consents Team Leader at Waipa District Council reviewing and approving District Council resource consent applications.
- 6 I also worked as a Consultant at AECOM for four years both preparing resource consent applications for private sector clients and territorial authorities and assisting various district councils including Thames Coromandel District Council, Hauraki District Council and ex-Manukau City Council with their duties including resource consents processing. I have worked as a Development Control Planner for the London Borough of Hammersmith and Fulham and as a Planner for Hamilton City Council.
- 7 I am a full member of the New Zealand Planning Institute.
- 8 I am a certified Resource Management Act decision maker through the Making Good Decisions programme provided by the Ministry for the Environment.
- 9 I am familiar with the proposed Otago Regional Policy Statement (*PORPS*), the submission made by Fonterra Co-operative Group Limited (*Fonterra*) in September 2021 and Fonterra’s further submission made in November 2021. I am not providing this evidence as an expert. I am authorised to provide this evidence on behalf of Fonterra.

### **SCOPE OF EVIDENCE**

- 10 Fonterra seeks changes to parts of the PORPS to provide greater recognition of and provision for its operations in the Otago region. These operations, being the Stirling and Mosgiel Manufacturing Sites (*Sites*), are critical as they process large volumes of milk, and provide resilience and

security to the Fonterra manufacturing network across the country. Changes proposed include seeking new definitions that specifically recognise the significance of such sites and the potential adverse effects they can generate. It is important the Regional Policy Statement recognises significant activities and provides a regulatory framework that enables such activities to continue to function with certainty.

- 11 Further evidence will be provided by Susannah Tait (Planning) and Mike Copeland (Economics) that demonstrate the significance of the operation of these sites and the importance of providing an appropriate planning framework that supports the future operations of these sites.
- 12 My evidence will:
  - 12.1 provide an overview of the operations at the Stirling and Mosgiel Sites;
  - 12.2 highlight the broader strategic and legal considerations; and
  - 12.3 discuss changes sought to the PORPS to recognise the regional significance of these industrial activities.

## **OVERVIEW OF FONTERRA, ITS SOUTH ISLAND AND OTAGO OPERATIONS**

### **Fonterra Overview**

- 13 Fonterra was formed with the passing of the Dairy Industry Restructuring Act 2001 (*DIRA*) and a vote among farmer members of the New Zealand Dairy Board, New Zealand Dairy Group and Kiwi Co-Operative Dairies to manage those entities.
- 14 Fonterra is New Zealand's biggest company and a significant employer, with over 19,500 staff, nearly 12,000 of whom are New Zealand based. Fonterra owns 28 manufacturing sites, 5 brand sites and 3 logistic/distribution sites in New Zealand.
- 15 Fonterra is one of the top six dairy companies in the world by turnover (at around \$20 billion annually), the leading exporter of dairy products, and is responsible for more than a third of international dairy trade. Fonterra is owned by over 10,500 New Zealand dairy farmers who supply more than 18 billion litres of milk each year. Our global supply chain stretches from farms all over New Zealand to customers in more than 140 countries.

### **Fonterra's South Island Operations**

- 16 Fonterra owns and operates 28 dairy manufacturing sites throughout New Zealand (refer to **Attachment 1**). Nine of these sites are located within the South Island.
- 17 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.

- 18 Fonterra's processing activities in Otago form part of its Lower South Island (*LSI*) region. Fonterra's LSI region extends from North Otago to Invercargill.
- 19 Processing activities in the LSI Region include:
- 19.1 the collection of milk produced by almost 1,200 farmer shareholders;
  - 19.2 the subsequent processing of milk at Fonterra's Edendale or Stirling sites; and
  - 19.3 the distribution of finished product to domestic and international markets, primarily via the Port of Otago or South Port in Bluff.
- 20 Fonterra's operations cross regional council boundaries and therefore the impacts of policy in one region can have implications on Fonterra's activities in another.
- 21 Further, Fonterra and its farmers interact with not only the Otago Regional Council, but also the five territorial authorities located within the region. Planning documents that stem from the PORPS, such as regional and district plans, impact the day-to-day operations and activities of Fonterra and its farming community.

### **Otago Region**

- 22 Fonterra's activities in Otago span the dairy supply chain. They include:
- 22.1 the on-farm production of milk by Fonterra's farmer shareholders;
  - 22.2 the milk's subsequent processing at Fonterra's Stirling milk processing site near Balclutha; and
  - 22.3 the transportation of finished products to the Mosgiel Distribution Centre, from where they are sent to the Port of Otago for export to domestic and international markets.
- 23 In the 2021 / 2022 season there were 393 active Fonterra dairy farms in the Otago region. This means there are a large number of people employed in the dairy industry in Otago. Dairy industry employees include people working in various areas from on-farm production of milk, to advising farmers on management and sustainability, to processing, services and logistics. This is discussed further in the evidence of Mike Copeland. Of the 393 active Fonterra dairy farms in Otago, 78% hold a Farm Environment Plan (*FEP*) with Fonterra. Helping its farmers set up FEPs to document and deliver good farming practices continues to be a key priority for Fonterra.
- 24 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 site's payments to local shareholder milk suppliers totalled \$360 million to the regional economy with much of this entering the Otago economy. Dairying represents a very significant part of the Otago (and wider New Zealand) economy.

## **Stirling and Mosgiel Sites**

- 25 Fonterra has two key assets in the Otago region, being the Stirling dairy manufacturing site near Balclutha, and a distribution centre at Mosgiel.

### ***Stirling site***

- 26 Fonterra's key manufacturing operation within the Otago region is the Stirling site located at the southern end of the Stirling Township (near Balclutha). The Stirling site has been operating for over 40 years and employs approximately 110 staff, including in driving, production, leadership, maintenance, administration and distribution roles.
- 27 The Stirling site processes up to 1.8 million litres of milk every day, and over 200 tonnes of cheese is made at the site daily. The site is the largest cheese producer in Australasia and can process ten 20kg blocks of cheese per minute. Cheese production at the site has continued to grow with an increase in production of 23% over the last four years. Some 90% of the cheese made at Stirling is exported to key markets including South Korea and Japan, and the remaining 10% is consumed within New Zealand.
- 28 The Stirling site plays an active role in supporting community activities and events. This year the site donated \$20,000 to an upgrade of the Balclutha playground which included construction of a Fonterra branded milk tanker as one of the pieces of play equipment. Further support is given through donations to the local women's rugby team, the local food banks, men's mental health and breast cancer. The site is involved with local events such as the planting of wetlands and picking up rubbish in the area, all as part of its stewardship role within the community.
- 29 The main part of the Stirling site, which is located on the north side of Mount Wallace Road, contains a cheese plant, whey processing plant, wastewater treatment plant and associated infrastructure, parking and other facilities. On the corner of St John and Baker Streets, and to the southwest of the main site and to the south of the main south railway line, is a dairy tanker depot and a fuel station.
- 30 Activities at the Stirling site are authorised through resource consents issued by Otago Regional Council and Clutha District Council.
- 31 Consents issued by Otago Regional Council provide for activities including the take and use of water and discharges to air, water and land.
- 32 Recent activity at the site involves the transition from using a coal fired boiler to a biomass boiler. In December 2021 resource consent was granted to establish the 1.5 megawatt biomass boiler, and to discharge associated air contaminants. Following commissioning the existing coal boiler will be decommissioned and the resource consent for this activity will then be surrendered. From late 2022 Stirling will use 100% wood biomass as renewable thermal energy. Fonterra will work with locally owned Pioneer Energy to source the wood biomass. Installation of the new infrastructure will contribute more than \$13.5 million to the local economy

and support an estimated 10 jobs in the wood biomass industry. This change 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.

33 Current consents held with Otago Regional Council are as follows:

<b>Otago Regional Council</b>		
<b>Consent</b>	<b>Activity</b>	<b>Expires</b>
2005.539.V4	Discharge to air for boiler emissions	28 May 2043
2007.040.V1	Discharge to air from whey emissions	30 January 2033
2007.635	Discharge to air (for wastewater treatment plant)	31 May 2043
2007.636.V1	Discharge to water	31 May 2043
2002.118	Water take from Matau Branch of Clutha River	1 September 2037
RM11.095.01	Discharge cooling water	22 April 2046
RM19.165.01	Discharge to air (dairy liquids)	27 November 2039
RM19.165.02	Discharge to land (dairy liquids)	27 November 2039
RM21.279.01	Landuse consent to disturb contaminated land for biomass boiler foundations	5 July 2026

34 Wastewater from the Stirling site has been discharged to the Clutha River since 1982. In 1990 the discharge regime was changed so that whey was removed from the discharge and spray irrigated to pasture. The installation of a whey protein concentrate plant in 1997 further changed the process whereby the whey could be processed on site and used in a variety of products. These changes have resulted in an ongoing reduction of the waste volumes required to be discharged from the site, and is consistent with Fonterra's ongoing commitment to reduce the discharges from its site operations.

35 In 2007 Fonterra proposed to upgrade its wastewater treatment system to enable further treatment of its dairy processing wastewater prior to discharge to the Clutha River. There were six options investigated as alternative approaches to wastewater treatment each requiring an assessment of their merits and issues. Following this process it was decided that a new biological wastewater treatment system was the preferred option for the Stirling site. The system was selected as it produced high quality wastewater, had a small foot print and met the river water quality requirements at that time (Australian and New Zealand Environment and Conservation Council 2000 or 'ANZECC'). This system involved wastewater being pre-treated in the Dissolved Air Flotation (DAF) unit, and then further treated in a biological treatment system designed to remove phosphorus, biological oxygen demands (BOD) nitrogen and

Escherichia coli (E. Coli). The maximum volume of wastewater to be discharged from the site was 3,700 cubic metres per day. Resource consent was granted for the system in May 2007.

- 36 The site continues to investigate options that reduce wastewater discharge volumes. However, the discharge of wastewater to water is an important part of the current operation of the Stirling site. Any change to the discharge activity would need to address the following limitations:
- Topographical considerations - much of the surrounding land is steep hillside meaning irrigation activities are difficult;
  - Land constraints – Fonterra would require 370 ha of total land to treat 3,700m<sup>3</sup> of wastewater per day. There would be considerable time and cost associated with acquiring further land for this purpose. It is noted that the land currently used for irrigation of Fonterra’s discharge is not owned by Fonterra; and
  - Soil limitations – the surrounding soils are subject to wet conditions meaning they are unsuitable for irrigation for around 50% of the season.
- 37 Consents issued by Clutha District Council include those both of an ongoing nature and those for one off activities such as earthworks. Relevant consents held with Clutha District Council are as follows:

<b>Clutha District Council</b>		
<b>Consent</b>	<b>Activity</b>	<b>Granted</b>
RM2672	Land use consent for bio-mass boiler to exceed height rule	29 October 2021
RM730	Land use consent for cheese factory expansion	3 July 1998
RM594	Land use consent for whey protein concentration plant	5 March 1997
<b>Special Waste Permit</b>		
SW120	To dispose special waste to landfill (by-produce of dairy factory effluent process)	17 May 2004

### **Mosgiel site**

- 38 The Mosgiel site is Fonterra’s key southern distribution hub and is located on Stedman Road, Mosgiel. The site accommodates a 45,000 tonne dry store building and 17,000 tonne cool store building. These buildings provide for the temporary storage of product before being exported, as well as additional storage to provide extra capacity for the manufacturing sites in the South Island.

- 39 The site is located with strategic rail access to Port Chalmers and allows for substantial reductions in truck movements on roads between the site, Port Otago and Southland. Benefits are reduced fuel use and carbon emissions.
- 40 Activities at the Mosgiel site are authorised through resource consents granted by Dunedin City Council. Resource consent was granted to establish the Fonterra Storage and Distribution Facility in August 2009. Development of the site was consented to occur in three stages including conversion of the main 21,000m<sup>2</sup> building into a dry products store (stage 1), construction of an additional 10,000m<sup>2</sup> ambient store and a 5,700m<sup>2</sup> cool store (stage 2), and a future stage adding 23,100m<sup>2</sup> (stage 3). Those consents were exercised and given full effect.
- 41 More recently in December 2019 a section 127 change to the existing resource consent was issued to allow for an increase in the number of wagons on each train to the site from 14 to 24. Both resource consent applications were issued on a non-notified basis.
- 42 Current consents held with Dunedin City Council consents are as follows:

<b>Dunedin City Council</b>		
<b>Consent</b>	<b>Activity</b>	<b>Issued</b>
LUC-2009-243	Establish Fonterra Storage & Distribution Facility	7 August 2009
LUC-2009-243-A	RMA s127 to increase the number of train wagons	18 December 2019

- 43 As evidenced by the above summary, Fonterra operations are governed by an extensive framework of consents across a number of Councils. These consents allow both for the ongoing investment and development of the sites to provide for further growth, along with providing some flexibility to accommodate unforeseen changes such as sustainability initiatives.

### **STRATEGIC AND LEGAL CONSIDERATIONS**

- 44 Fonterra was established with the passing of the Dairy Industry Restructuring Act (*DIRA*).
- 45 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.
- 46 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.

- 47 The only ability Fonterra has to reject 'new' or 'increased' supply is under sections 94 and 95. These sections allow for rejection if the supply of milk is less than 10,000 kilograms of milksolids or if the cost of transporting the milk of the new entrant exceeds the highest cost of transporting another shareholder farmer's milk. This means that Fonterra (in principle) needs to ensure that it has enough capacity across its manufacturing network to process all the milk supplied to it on any one given day. Milk not collected due to a lack of processing capacity would need to, at worst, be discharged on-farm, which can potentially have both environmental and economic consequences.
- 48 Fonterra is also required to supply to its competitors up to five percent of milk collected for processing. A competitor can choose to take this milk one day, but not the next. Fonterra, therefore, needs to ensure that it has milk processing capacity for all milk that can potentially be supplied to it including the five percent that may or may not be taken prior to processing by its competitors on a daily basis. The effect of this legislative requirement is that Fonterra must ensure that it has surplus processing capacity at each of its sites.
- 49 The processing capacity required by Fonterra is based on the projected maximum volumes of milk produced on-farm at any one time. This generally occurs over what is called the 'peak milk' period between September and November each year. This period coincides with the return of cows to milking post-calving (noting that calving is earlier in the North Island (around June/July) compared to the South Island (around July/August) due primarily to climatic conditions that stimulate spring grass growth).
- 50 Amplifying the importance of Fonterra's ability to maintain an interdependent manufacturing network is that often on-farm milk production in the North Island (which commences before the South Island) exceeds processing capacity during the peak-milk period. Consequently, in some years Fonterra transports large volumes of milk from the North Island by rail to its southern sites for processing. South Island manufacturing sites, including Stirling, are therefore critical in ensuring that all milk provided to Fonterra is able to be processed. This noting that in recent years on-farm milk production in the South Island has also exceeded processing capacity, and milk has consequently been transported to the North Island.
- 51 A current strategic goal for Fonterra includes maintaining a strong focus on delivering value from New Zealand milk while recognising that future milk growth is expected to be flat to declining. Annually, Fonterra reviews its strategic focus and also revises its asset plans to respond to changes in the business's focus.

- 52 Fonterra has a focus on replacing aged assets with new assets that can increase value from the milk, along with replacing boilers and wastewater treatment plants to support its sustainability ambitions. These works will generally be completed on current brownfield sites but at times may need to be outside the existing foot print.
- 53 Fonterra is seeking a policy and rule framework that enables the protection of existing industries, such as milk processing facilities in rural areas, whilst allowing for some flexibility particularly to accommodate sustainability and innovation initiatives.

### **THE PORPS AND FONTERRA**

- 54 To safeguard the future operations of Fonterra's sites in the Otago region, it is critical to Fonterra that:
- a. The PORPS recognises regionally significant industry and its importance to sustainable management;
  - b. Greater recognition of the impacts of, and protection against, reverse sensitivity effects is provided; and
  - c. That the discharges to air provisions are appropriate and proportionate to the scale of effects.
- 55 As I have outlined, the Stirling and Mosgiel sites are significant to Fonterra. The sites provide employment and economic benefits for the Clutha District and Dunedin City, with flow on effects at a regional scale. Fonterra and its employees are active members of the Otago community.
- 56 In order for Fonterra's Otago operations to continue operating effectively and efficiently, the significance of the Stirling and Mosgiel sites must be appropriately recognised in the PORPS. Fonterra is concerned the PORPS either provides inadequate direction or fails to enable Fonterra as a regionally significant industry player to properly make its best contribution to the economic and social wellbeing of the people and communities of Otago.

### **Regionally Significant Industry**

- 57 The PORPS provides a high level of protection for natural resources. Fonterra considers, however, that the PORPS must provide further direction for the use of those natural and physical resources, particularly in relation to a key driver of Otago's social and economic well-being: its regionally significant industry. This would assist the PORPS to promote the sustainable management of natural and physical resources.
- 58 Fonterra seeks additional provisions that appropriately recognise and provide for the operational and functional requirements of regionally significant industry. For example, this would include a definition that specifically sets out what 'regionally significant industry' is. Additional provisions could be provided in the policy framework that would seek to recognise the nature of such industry including its long term benefits, need

for appropriate infrastructure, access to resources and consideration of potential adverse effects.

- 59 An example of this approach is provided in the operative Waikato Regional Policy Statement (*WRPS*). This policy framework specifically provides for 'regionally significant industry' through a definition,<sup>1</sup> and a stand-alone policy titled 'Regionally significant industry and primary production'.<sup>2</sup> The policy sets out the considerations when assessing activities that are regionally significant and the term is referenced in further sections of the *WRPS* such as Urban Development. The policy provides a framework which enables the continued operation of those activities that provide significant contributions to the region.
- 60 Fonterra proposed that the definition of regionally significant industry include recognition of social, economic or cultural benefits. The s42A officer's report was concerned that only activities with an economic focus would qualify as meeting the significant threshold. However, as the definition proposed by Fonterra included economic, social and cultural factors it is unclear why the s42A officer determined other factors would not be relevant considerations.
- 61 Further, the s42A officer suggested that the inclusion would elevate 'regionally significant industry' to the same level as 'regionally significant infrastructure'. When assessing activities (defined in the *PRPS*), the *PORPS* does not require a prioritisation approach to be undertaken. For example, when processing a resource consent application for a specific activity (that is defined), it is irrelevant what other definitions exist; therefore, it is incorrect to prioritise one definition over another. Rather, all definitions of activities are considered independently, or concurrently, but not interdependently. A definition of 'regionally-significant industry' would stand as a defined-activity in its own right; it does not follow that it would be elevated to the same level as 'regionally significant infrastructure'.

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<sup>1</sup> Means an economic activity based on the use of natural and physical resources in the region and is identified in regional or district plans, which has been shown to have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits.

<sup>2</sup> The management of natural and physical resources provides for the continued operation and development of regionally significant industry and primary production activities by:

1. recognising the value and long term benefits of regionally significant industry to economic, social and cultural wellbeing;
2. recognising the value and long term benefits of primary production activities which support regionally significant industry;
3. ensuring the adverse effects of regionally significant industry and primary production are avoided, remedied or mitigated;
4. co-ordinating infrastructure and service provision at a scale appropriate to the activities likely to be undertaken;
5. maintaining and where appropriate enhancing access to natural and physical resources, while balancing the competing demand for these resources;
6. avoiding or minimising the potential for reverse sensitivity; and
7. promoting positive environmental outcomes.

- 62 Evidence provided by Fonterra's economic expert Mike Copeland addresses the significant contribution both the Stirling and Mosgiel sites provide to the economy. The evidence demonstrates that Fonterra's scale of activity within the Otago region, including its manufacturing and distribution sites along with its farming base, meets the threshold for being industry that is significant to the region.
- 56 Fonterra considers the inclusion of regionally significant industry is an appropriate planning approach. It is an approach that has been adopted in other policy frameworks and it is reflective of the regional significance and scale of Fonterra's activities.

### **Reverse Sensitivity**

- 63 Reverse sensitivity is a key issue for Fonterra. Reverse sensitivity refers to the vulnerability of established, effects-generating activities (i.e. industrial land uses) to objections from neighbours as a result of new sensitive activities locating nearby. Such objections can stifle the growth of the established activities and their redevelopment, or in extreme cases, drive them elsewhere. Reverse sensitivity effects can include noise, odour, traffic, light spill and visual matters.
- 64 It is Fonterra's experience that reverse sensitivity effects occur regardless of compliance with resource consent conditions or with performance standards in the plan. Put another way, the establishment of new sensitive activities such as residential dwellings increases the likelihood of complaints, even when the industrial activity is operating lawfully. Like other significant infrastructure operators, reverse sensitivity issues can, and do, affect Fonterra's activities regardless of our compliance with planning instruments and authorisations. This is because it is often the perception of effects, rather than actual effects, that leads to complaints from sensitive land users.
- 65 In response, the industrial operator may be expected to respond to these complaints, and need to consider implementing measures such as mitigating effects for new sensitive neighbours. The operator also incurs additional costs in consent processes, and has a reduced ability to develop and expand operations at the site.
- 66 Fonterra acknowledges that the continuous improvement of its activities, and particularly its land, air and water discharges is integral to demonstrating its commitment to achieving environmental objectives and continuing to operate. However, and with increased encroachment by sensitive and smaller landholdings within proximity of its manufacturing sites, when it comes to notifying consent applications, the number of affected parties, and corresponding costs for Fonterra will continue to increase. This is a significant issue that Fonterra faces in Otago and around the country.
- 67 For example, at Fonterra's Te Rapa site a nearby landowner has obtained a plan change and now seeks resource consents for a large residential development. Once residential development has been approved and occupied, this will add a large number of proximate residential landowners

that may need to be notified for any future expansion (or even renewing of consents) in addition to residents also seeking more restrictive planning rules when district and regional plans come up for renewal. This adds significant additional cost, delay and complexity to that consenting and the plan renewal process. A further example relates to a proposal to install a new large drier at Fonterra's Te Awamutu site. Having worked through the issues associated with that project, it was abandoned on the basis of the proximity of neighbouring residential properties and the inability to maintain "residential" standards of amenity for those properties.

- 68 Even if landowners moving into a neighbourhood are relatively comfortable with Fonterra's existing operations, subsequent consenting and policy development processes open up opportunities for their involvement (and objection). It is at this stage that expectations of future site use from future residents are often more stringent than current operations (plus improvement, which is often not anticipated in the relevant planning document(s)). Third parties that buy into the area may also have different expectations from previous owners and occupiers.
- 69 Reverse sensitivity effects generally result from complaints by just a few residents – allowing even a small degree of sensitive development near an existing activity to cause significant issues, and the risk of receiving complaints increases as the number of nearby properties increases. Each complaint can result in hours of staff time investigating its source, communicating with the complainant and relevant council(s), and identifying practicable solutions that ensure the complaints do not endure or result in further cost to Fonterra.
- 70 A recent example of reverse sensitivity concerns arising as part of a policy process was the Dunedin City 2nd Generation District Plan (2GP). The 2GP was notified on 26 September 2015, followed by Hearings from May 2016 to December 2017 and decisions were released in November 2018. In December 2019 Fonterra lodged an appeal on the 2GP with the primary issue being the noise provisions relating to operations at the Mosgiel site. Two neighbours residing in rural residential properties adjacent to the Mosgiel site joined the appeal as s274 parties. The neighbours opposed the proposed Noise Control Area over the Mosgiel site, and part of their property, as a means to regulate noise levels from the Mosgiel site. They also opposed the noise levels proposed to be emitted by activities at the site. From 2020 to 2021 the Dunedin City Council, Fonterra and the s274 parties (which also included Oceana Gold) worked through the issues and options for noise. Matters were not resolved through that process and the appeal proceeded to Environment Court mediation next with three mediation sessions taking place in 2022. Following mediation, and resolution of the appeal amongst all parties, a consent order was issued in September 2022.
- 71 Fonterra's involvement in the 2GP was a seven year process with the main issue being reverse sensitivity effects from noise experienced by the two adjacent land owners. The external financial cost to Fonterra for its acoustic, planning and legal experts was over \$300,000, more than a third of which was due to the appeal. This cost does not include time incurred by Fonterra staff in the policy team, from the Mosgiel site, and others

indirectly involved across the business. The overall cost and time required to respond to the noise issue through the 2GP was significant and created uncertainty for operations at the site for many years.

- 72 For the reasons outlined above, Fonterra takes a strong interest in policy processes where a proposal provides for the introduction of sensitive activities into inappropriate locations. It is important that the PORPS provides appropriate high level direction regarding how reverse sensitivity effects are to be recognised and addressed. This necessitates an adequate definition that references environmental effects and fully encompasses reverse sensitivity.

### **Air**

- 73 As I mentioned earlier, in December 2021 Fonterra's Stirling site obtained resource consent to establish a biomass boiler (allowing it to decommission its existing coal boiler), and to discharge associated air contaminants. The change to biomass is part of Fonterra's strategic approach to reduce emissions from manufacturing sites.
- 74 It is important to Fonterra that the proposed PORPS provides appropriate direction regarding the management of air discharges. At the moment, Fonterra has considerable concerns regarding the "avoid" approach to discharges to air in the pORPS, even with the s42A Officer's suggestion to add the word "generally" before "avoid discharges". There needs to be an appropriate threshold set, and guidance around, when discharges to air can be managed rather than avoided.
- 75 Fonterra also considers that further recognition of the impacts of reverse sensitivity effects is required. We consider that adverse air effects experienced by sensitive neighbours should be recognised as a reverse sensitivity effect and the pORPS should provide direction to territorial authorities in this regard. This will ensure that sensitive neighbours are protected from the effects of existing activities.

### **CONCLUSION**

- 76 Fonterra is significant both nationally and to the people and communities of Otago. Fonterra makes a significant contribution to the economic and social wellbeing of the Otago region and to the sustainable management of natural and physical resources in Otago.
- 77 It is important that the PORPS recognises regionally significant industry and the benefits these industries provide to the Otago community. The PORPS should provide a policy framework that provides certainty to regionally significant industry such as Fonterra so that it can continue to bring social and economic benefits of the people and communities of Otago.

- 78 In addition, the PORPS must provide appropriate high level direction regarding how reverse sensitivity effects are to be recognised and addressed. It also needs to provide direction in relation to situations where discharges to air are able to be appropriately managed.

Dated: 23 November 2022

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Suzanne O'Rourke

Attachment 1





