

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 – Freshwater  
Planning Instrument

*and:* **Fonterra Limited**  
*Submitter FPI019 and FSFPI019*

Statement of evidence of Susannah Vrena Tait

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Dated: 28 June 2023

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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. A summary of my qualifications and relevant experience is contained in **Appendix A**.
- 1.2 I assisted with the preparation of the submissions and further submissions made by Fonterra Limited ("**Fonterra**") (submitter FPI019 and FSFPI019) on the Proposed Otago Regional Policy Statement 2021 Freshwater Planning Instrument ("**PORPS-FPI**"). I have been authorised by Fonterra to provide evidence on their behalf.
- 1.3 I also note that Fonterra lodged submissions on the Proposed Otago Regional Policy Statement 2021 ("**PORPS**"), as a whole, when it was originally notified in June 2021. Fonterra and its experts have already prepared and presented evidence to the Hearing Panel in relation to the non-freshwater provisions of the PORPS.
- 1.4 I note that one of my colleagues at Planz, Ms Carmen Taylor, has prepared a planning statement on behalf of Ravensdown Limited. Having reviewed Ms Taylor's (draft) statement, I am comfortable that there are no conflicts.

### 2. CODE OF CONDUCT

- 2.1. 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 2023. 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.

### 3. SCOPE OF EVIDENCE

- 3.1 In preparing my evidence I have read the s32 Evaluation Report and the s42A Hearing Report ("**the S42A report**") prepared on behalf of the Otago Regional Council ("**Council**"). I acknowledge that the s42A report was prepared by more than one author and throughout my evidence, I collectively refer to the s42A report authors as 'the reporting officer'.
- 3.2 I have also read, and I am reliant on, the corporate statements of Ms Suzanne O'Rourke and Mr Morgan Watt and the freshwater evidence of Ms Katherine McCusker prepared on behalf of Fonterra.

- 3.3 In my evidence, I set out a summary of my conclusions (**Section 4**) before moving on to examine Fonterra's individual submission points on:
- a. SRMR-I5 and SRMR-I6, as well as recommended (new) SRMR-I10A (included in the Proposed Otago Regional Policy Statement 2021 - Reply Report Version – May 2023 ("**the reply provisions**") (**Section 5**).
  - b. LF-WAI provisions, specifically O1, P1, PR1 and AER2 (**Section 6**).
  - c. LF-FW provisions, specifically O1A, O2, P7, P7A, P15, P16, PR3 and AER9 (**Section 7**).
  - d. LF-LS provisions, specifically P21 (**Section 8**).
- 3.4 For ease of reference, my recommended amendments to provisions are shown in red underline and ~~red strikethrough~~.

#### **4 EXECUTIVE SUMMARY**

- 4.1 I generally agree with the amendments recommended by the reporting officer to the provisions that Fonterra submitted on.
- 4.2 I consider the changes recommended to SRMR-I5 and SRMR-I6 are appropriate, on the basis that new SRMR-I10A, recommended to be included in the reply provisions, is also adopted. I consider that I10A provides the necessary counter-perspective to I5, and particularly I6, that access to and the use of water (and other natural resources) drives social and economic benefits that are important to the wellbeing of the region.
- 4.3 I consider the amendments to LF-WAI-O1, P1, PR1 and AER2 are appropriate as these changes are consistent with, build on and reflect the National Policy Statement for Freshwater 2020 ("**NPS-FM**").
- 4.4 I support the reporting officer's recommendation to include an over-arching objective for the Freshwater Management Units ("**FMU**"). This removes the repetition in and provides consistency (where appropriate) between FMU vision objectives. The consequential changes to LF-VM-O2 and the deletion of LF-FM-O8 are appropriate.
- 4.5 I agree with the amendments to LF-FM-P7 as these are consistent with the direction of the NPS-FM.
- 4.6 I agree with the inclusion of new LF-FM-P7A, which acknowledges the benefits of accessing and using freshwater within limits (consistent with the third priority of the NPS-FM).
- 4.7 I support the splitting of LF-FM-P15 (into LF-FM-P15 and P16) to provide for stormwater discharges and the discharges of sewage, animal effluent and industrial and trade waste separately. I support the amended wording of LF-FM-P15. I consider that changes are needed to P16 to firstly include 'greywater', and

secondly to apply the same 'test' to both existing and new wastewater discharges. I consider a consequential change is needed to LF-FM-M6(8).

- 4.8 I agree with the amendments to LF-FM-PR3 and LF-FM-AER9 which, respectively, acknowledge the role that freshwater plays in supporting the social, cultural and economic wellbeing of people and communities; and reflect the revised policy direction provided by LF-FM-O1A and LF-FM-P16.
- 4.9 I agree with the recommended amendment to LF-LS-P21(1) which acknowledges that the health and wellbeing of water can be maintained or improved to achieve environmental outcomes by either the reduction or management of contaminants.

## 5 ISSUE STATEMENTS

- 5.1 In submissions<sup>1</sup>, Fonterra sought changes to I5 and I6, or alternatively changes to I5 and a new issue statement that acknowledged the importance of access to, and use of, natural resources within the region.

### SRMR-I5

- 5.2 I support the inclusion of 'industry' in the *Economic* paragraph of I5 as recommended by the reporting officer<sup>2</sup>. I consider recognition of 'industry' in the context of I5, and more specifically in the context of the *Economic* paragraph, is an appropriate addition to capture a range of industrial activities that rely on freshwater to support them (including 'rural industry').

### SRMR-I6

- 5.3 I support the recommended amendments to the wording of I6<sup>3</sup> provided that the new I10A (recommended for inclusion in the PORPS by the reporting officer<sup>4</sup>) is adopted. I10A provides the necessary counter-perspective to I5, and particularly I6, that access to and the use of water drives social and economic benefits that are important to the wellbeing of the region.

- 5.4 If the Panel (in the PORPS non-freshwater proceedings) is not of the mind to approve I10A, then I consider that changes are still necessary to I6. Specifically:

*SRMR-I6 – Declining water quality has adverse effects on the environment, our communities, and the economy*

...

*Economic*

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<sup>1</sup> Submissions FPI019.001 and FPI019.002

<sup>2</sup> S42A Report, paragraph 552.a

<sup>3</sup> S42A Report, paragraph 621

<sup>4</sup> Proposed Otago Regional Policy Statement 2021 – Reply report version – May 2023, pages 105 and 106

...

Activities that rely on access and use of water generate direct and indirect economic benefits; therefore, their ability to operate, or to improve their operational efficiency, affects the economy of the region. The ability to access and use water may impact the ability of activities to optimise the use of investments and assets and realise their potential economic value.

*Social*

...

The ability for activities to access and use natural and physical resources provides for the social and cultural wellbeing of people and communities including by supporting employment, liveability, recreation, resilience, food security and investment into communities.

- 5.5 The addition of these paragraphs to I6 acknowledges that accessing and using water is important to the social and economic wellbeing of the region. It is consistent with the third priority (Objective 2.1(1)(c)) and Policy 15 of the NPS-FM to enable communities to provide for their social, economic, and cultural wellbeing in a way that is consistent with this NPS-FM.
- 5.6 The wording I have recommended above is consistent with the wording of SRMR-I10A (which I was involved in drafting)<sup>5</sup>.

## **6 LF-WAI**

- 6.1 Fonterra sought changes<sup>6</sup> to LF-WAI-O1, P1, PR1 and AER2; some of which the reporting officer has recommended be accepted in full or in part, and others rejected. I support the wording recommended by the reporting officer for LF-WAI-O1, P1 and AER2. I consider that the changes are consistent with, build on and reflect the NPS-FM.

## **7 LF-FW**

- 7.1 Fonterra made submissions on the LF-FM and LF-VM provisions of the PORPS-FPI. The reporting officer has recommended substantial changes to these provisions in response to submissions. On the whole, I consider the new package of provisions to be generally appropriate and I applaud the reporting officer for their work in bringing together a large number of submissions in a comprehensive suite of freshwater provisions. I discuss the provisions (relevant to Fonterra) in turn.

### LF-FW-O1A

- 7.2 A new overarching objective has been proposed (LF-FW-O1A) which removes the repetition in and provides consistency (where appropriate) between the

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<sup>5</sup> [https://www.orc.govt.nz/media/14099/srmr-new-\\_resource-users\\_jws\\_final.pdf](https://www.orc.govt.nz/media/14099/srmr-new-_resource-users_jws_final.pdf)

<sup>6</sup> Submissions FPI019.003, FPI019.004, FPIFS019.005 and FPI019.005

freshwater management unit (“**FMU**”) vision objectives. I generally support the wording of LF-FW-O1A<sup>7</sup>.

7.3 In particular, I support clause (8) which seeks to phase out wastewater discharges direct to water to the greatest extent practicable. I agree with the reporting officer’s comment that *‘although land treatment systems are relatively common now for a range of types of discharges, they are not always technically feasible and, secondly, if a discharge is treated to an appropriate standard then it may have fewer adverse effects than a discharge to land’*<sup>8</sup>. Furthermore, I agree with the reporting officer<sup>9</sup> that, because Te Mana o te Wai prioritises economic wellbeing in its hierarchy (albeit the third priority), the ability to discharge wastewater in a manner that supports economic wellbeing and upholds Te Mana o te Wai should be provided for.

7.4 I do note that the reporting officer has recommended the use of the word ‘practicable’ in clause (8). I am comfortable with this, as ‘practicable’, when used in the context of the RMA<sup>10</sup>, takes into account the effects, the financial implications and feasibility of adopting a certain method. I consider that ‘practicable’ is clearly articulated in the RMA and is both reasonable and appropriate in this objective.

LF-VM-O2<sup>11</sup>

7.5 In light of LF-FM-O1A, I support the corresponding amendments to LF-VM-O2<sup>12</sup>, including the deletion of clause (7)(c)(iv). In the event that the Panel does not approve LF-FM-O1A (and specifically LF-FM-O1A(8)), I support the amendments to LF-VW-O2 proposed by Fonterra, specifically:

*LF-VM-O2 – Clutha Mata-au FMU vision*

...

7) *in addition to (1) to (6) above:*

...

c) *in the Lower Clutha rohe:*

...

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<sup>7</sup> S42A Report, paragraph 960(a)

<sup>8</sup> S42A Report, paragraph 944

<sup>9</sup> S42A Report, paragraph 945

<sup>10</sup> Best Practicable Option: *best practicable option, in relation to a discharge of a contaminant or an emission of noise, means the best method for preventing or minimising the adverse effects on the environment having regard, among other things, to—*

- a. *the nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and*
- b. *the financial implications, and the effects on the environment, of that option when compared with other options; and*
- c. *the current state of technical knowledge and the likelihood that the option can be successfully applied*

<sup>11</sup> Submission FPI019.006

<sup>12</sup> S42A Report, paragraphs 960(b)(i) and 1062

- iv. *there are no direct discharges of wastewater containing sewage to water bodies.*
- v. *there are no direct discharges of industrial and trade waste or grey water to water bodies unless no feasible alternative discharge option exists to better manage ecological and cultural effects on water quality.*

7.6 I consider that the amendments proposed by Fonterra to LF-VM-O2 acknowledge the cultural sensitivities of discharging sewage to water and the need for this practice to cease. I consider that proposed clause (v) is comparable to the reporting officer's LF-FM-O1A(8) and acknowledges that discharges of wastewater to water may, in some situations, be appropriate or preferable to land-based discharges.

LF-FM-O8<sup>13</sup>

7.7 On the basis that LF-FW-O1A and LF-FM-P7A (discussed below) are approved by the Panel, I support the deletion of LF-FM-O8 recommended by the reporting officer<sup>14</sup>.

LF-FM-P7<sup>15</sup>

7.8 I support the changes recommended by the reporting officer to LF-FM-P7<sup>16</sup>. I consider that these changes are consistent with the NPS-FM and reflect the directions provided by the relevant objectives.

LF-FM-P7A

7.9 I consider that the changes that Fonterra sought to LF-FM-O8 have been captured in LF-FM-P7A. I consider the recommended wording of LF-FM-P7A<sup>17</sup> and the inclusion of LF-FM-M6(5A) are appropriate as it acknowledges the benefits of accessing and using freshwater within limits. I support the non-exclusive use of 'including for' in clause (1).

LF-FM-P15 and LF-FM-P16<sup>18</sup>

7.10 Following on from the consideration of LF-FM-O1A (and in particular LF-FM-O1A(8)), I consider that the policy response for stormwater discharges (LF-FM-P15) and wastewater discharges (LF-FM-P16) recommended by the reporting officer are largely appropriate.

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<sup>13</sup> Submission FPI019.007

<sup>14</sup> S42A Report, paragraph 960(e)

<sup>15</sup> Submission FPI019.008

<sup>16</sup> S42A Report, paragraph 1416

<sup>17</sup> S42A Report, paragraph 1417

<sup>18</sup> Submission FPI019.009

- 7.11 I support the reporting officer's recommended wording of LF-FM-P15<sup>19</sup>.
- 7.12 I largely support the reporting officer's recommended wording of LF-FM-P16<sup>20</sup> but consider two changes are required.
- 7.13 Firstly, I consider that it is unclear if P16 includes greywater discharges. The relevant objective (LF-FM-O1A(8)) refers to wastewater<sup>21</sup>, but P16, in its title, has selected contaminants that are not captured by the definition of wastewater (i.e. animal effluent) or are components of wastewater (i.e. sewage and industrial and trade waste), but has not included all the possible components of wastewater (i.e. greywater). As drafted, P16 does not provide a clear policy direction for the treatment of greywater. This could easily be resolved by adding greywater to the policy title. This also overcomes the difficulty of the National Planning Standards definition of wastewater which requires two or more contaminants to be present before the discharge can be defined as wastewater. By including greywater in the title, P16 would apply even when only one contaminant is present.
- 7.14 Secondly, I consider amendments are required to P16(1) and (2)(a) because:
- a. I do not support the use of the word 'possible' in clause (1) and consider that for consistency, the clause (if retained) should use 'practicable' to be consistent with LF-FM-O1A(8). Almost any solution could be technically 'possible', but it does not necessarily mean that the effects are appropriate, the financial implications are appropriate, or that it is feasible (as directed by the framework for determining 'practicable').
  - b. It is unclear why existing and new discharges containing sewage or industrial and trade waste are treated differently, specifically [emphasis added]:
 

*Minimise the adverse effects of direct and indirect discharges containing animal effluent, sewage, and industrial and trade waste to fresh water by:*

*(1) phasing out existing discharges containing sewage or industrial and trade waste directly to water to the greatest extent possible,*

*(2) requiring:*

    - (a) new discharges containing sewage or industrial and trade waste to be to land, unless adverse effects associated with a discharge to land are demonstrably greater than a discharge to fresh water,*
    - (b) ...*

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<sup>19</sup> S42A Report, paragraph 1552

<sup>20</sup> S42A Report, paragraph 1552

<sup>21</sup> Defined in the National Planning Standards as: *means any combination of two or more the following wastes: sewage, greywater or industrial and trade waste.*



- c. I consider that clause (1) sets an unnecessarily higher threshold on existing discharges than clause (2)(a) sets for new discharges. As I have noted, almost any solution is possible (but not necessarily practicable) and therefore all existing discharges should or could be phased out regardless of the state of these discharges. More specifically, clause (1) does not create a framework for considering whether a discharge is treated, to what extent, whether the effects of the discharge are better than the alternatives, what are the financial implications and what is feasible in the context of the site and the wider environment.
- d. Conversely, the threshold that clause (2) places on new discharges builds on the premise of 'practicable' and contemplates that treatment of a discharge may mean that the effects of discharging directly to a freshwater body are more appropriate than to land.
- e. As drafted, the policy seeks to place the emphasis on existing versus new, however, I consider the more pertinent consideration is whether a discharge is treated or not. There is almost an assumption in clause (1) that all existing discharges are 'bad', compared to clause (2) which creates a 'fairer' policy pathway for new discharges by assessing the actual nature of the discharge (i.e. treated versus untreated, and to what extent etc).
- f. As Ms McCusker's evidence discusses, there are limitations to discharging wastewater to land (which applies to both existing and new discharges). Specifically, when the soil moisture content is too high or saturated (during heavy rainfall and the winter months), further irrigation of the land can lead to nutrient leaching, ponding, runoff and damage to the soil structure<sup>22</sup>.
- g. Furthermore, as addressed in the evidence of Mr Watt, there are two further constraints in the vicinity of the Stirling site that limit the ability to discharge wastewater to land, namely the topography and availability of land<sup>23</sup>.
- h. As a result of these limitations, a suitable policy response is required to ensure that scope is provided in the event that discharges to water result in better environmental outcomes than discharges to land.

7.15 Accordingly, I consider that P16 should be amended as follows:

*LF-FW-P16 – Discharges containing animal effluent, sewage, greywater and industrial and trade waste*

*Minimise the adverse effects of direct and indirect discharges containing animal effluent, sewage, greywater and industrial and trade waste to fresh water by:*

*~~(1)-phasing out existing discharges containing sewage or industrial and trade waste directly to water to the greatest extent possible,~~*

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<sup>22</sup> Evidence of Ms Katherine McCusker, paragraphs 22 to 25

<sup>23</sup> Evidence of Mr Morgan Watt, paragraph 29

(2) requiring:

(a) ~~new~~ discharges containing sewage or industrial and trade waste to be to land, unless adverse effects associated with a discharge to land are demonstrably greater than a discharge to fresh water,

(b) ...

7.16 A consequential amendment is also be needed to LF-FM-M6(8), specifically:

*manage the adverse effects of stormwater and ~~wastewater~~ discharges containing animal effluent, sewage, ~~greywater~~ or industrial and trade waste in accordance with LF-FW-P15 and LF-FW-P~~16~~15A.*

7.17 In the event that the Panel does not agree with my reasoning set out in paragraph 7.14 above and decide not to delete clause (1), I consider that clause (1) should be amended as follows: *phasing out existing discharges containing sewage or industrial and trade waste directly to water to the greatest extent practicable ~~possible~~....* I consider that 'practicable' is more appropriate in a policy setting as it has an appropriate 'assessment framework' built into it.

#### LF-FM-PR3

7.18 Fonterra made a further submission<sup>24</sup> supporting the Central Otago Winegrowers Association submission<sup>25</sup> seeking to recognise the importance of freshwater to the social, cultural and economic wellbeing of people and communities in PR3. The reporting officer has recommended accepting this amendment in part<sup>26</sup> and I agree with the wording of the amendment proposed by the reporting officer. I consider that supporting the social, cultural and economic wellbeing of people and communities is a principal reason of the LF-FM provisions.

#### LF-FM-AER9

7.19 Fonterra made a further submission<sup>27</sup> supporting the Silver Fern Farm submission<sup>28</sup> seeking to retain AER9 as notified. The reporting officer has rejected this submission, although made amendments to the provision as sought by Te Rūnanga o Ngāi Tahu and Kāi Tahu ki Otago<sup>29</sup>. I agree with the reporting officer that the amendment to AER9 better reflects the policy direction provided by the revised LF-FM provision, specifically LF-FM-O1A and LF-FM-P16.

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<sup>24</sup> Further submission FPIFS019.014

<sup>25</sup> Submission FPI009.010

<sup>26</sup> S42A Report, paragraph 1675

<sup>27</sup> Further submission FPIFS019.016

<sup>28</sup> Submission FPI020.025

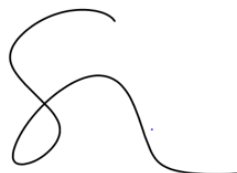
<sup>29</sup> S42A Report, paragraph 1692

## **8 LF-LS**

- 8.1 Fonterra sought an amendment<sup>30</sup> to LF-LS-P21(1) seeking that the clause provide for adverse effects of discharging contaminants to freshwater to be managed, as an alternative to reducing. I support the reporting officer's recommended change to LF-LS-P21(1) (as well as the amendments to the remainder of the policy). I consider that the amendment to LF-LS-P21(1) acknowledges that the health and wellbeing of water can be maintained or improved to achieve environmental outcomes by either the reduction or management of contaminants.

## **9 CONCLUSION**

- 9.1 I generally agree with the provisions recommended by the reporting officer and which Fonterra submitted on. I consider changes are needed to SRMR-I6 (in the event that SRMR-I10A is not included in the PORPS), LF-VM-O2 (in the event that LF-FM-O1A is not included in the PORPS), LF-FM-P16 and LF-FM-M6(8).



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Susannah Vrena Tait

28 June 2023

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<sup>30</sup> Submission FPI019.010

## 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 review (including preparation of submissions and evidence) of the Proposed Otago Regional Policy Statement (non-freshwater) on behalf of Fonterra.
  - The formulation of draft District Plan 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.