

Before an Independent Hearings Panel

The Proposed Waikato Regional Plan Change 1

IN THE MATTER OF the Resource Management Act 1991 (**RMA**)

IN THE MATTER OF the Proposed Waikato Regional Plan Change 1, Block 3 hearings,
Enterprise - C4.6 (definition of Enterprise) and related provisions
and submissions

**REBUTTAL EVIDENCE OF GRANT IAN JACKSON
ON BEHALF OF MIRAKA LIMITED**

(Corporate)

Dated: 19 July 2019

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1. EXECUTIVE SUMMARY

- 1.1 My full name is Grant Ian Jackson. I am the current General Manager of Milk Supply at Miraka Limited.
- 1.2 Miraka supports the emphasis that the Section 42A report places on FEPs as being a primary driver of targeted (specified) practice change and improvement in water quality.
- 1.3 Miraka also supports the concept of Certified Industry Schemes and seeks Permitted Activity status for those properties/enterprises that operate within a CIS and have an approved FEP.
- 1.4 Miraka is conscious of the concerns about such an approach containing too much discretionary judgement. As an alternative, Miraka supports an approach where Schedule 1 specifies clear actions and minimum standards and farming that complies with those actions and minimum standards (and is within a CIS) is a Permitted Activity.
- 1.5 If a CIS - Permitted Activity scenario is accepted, it is still important that some discretion is available to CFEPs, particularly with reference to timeframes for implementation.
- 1.6 Robust auditing of CFEP performance by Waikato Regional Council will be essential. This should involve an audit of a randomised selection of every CFEP's certified FEPs and the follow up reviews of these plans.
- 1.7 Miraka still maintains the view that the determination of an NRP based on Overseer leach estimates and the 75th percentile rule are inequitable and a pre-emptive allocation regime. They are not an adequate basis for rule compliance.
- 1.8 Time trends in Nitrogen Surplus estimates and the implementation of actions required within FEPs will be better and more meaningful indicators of reduced loss of nitrogen to waterways.

2. INTRODUCTION

- 2.1 My full name is Grant Ian Jackson. I am the General Manager of Milk Supply for Miraka Limited (**Miraka**). My qualifications and experience are outlined in my evidence for Block 1, dated 15 February 2019.

- 2.2 I have also been responsible for co-ordinating and leading Miraka's submissions and response on Plan Change 1 and Variation 1 (**Plan Change 1**). In that role I have become familiar with the provisions of Plan Change 1 and their implications for Miraka.
- 2.3 I am authorised to give this evidence on behalf of Miraka.

3. SCOPE OF EVIDENCE

- 3.1 My evidence addresses evidence from other parties in relation to:
- (a) Farm Environment Plans (FEP) and activity status;
 - (b) Certified Farm Environment Planners (CFEP);
 - (c) Nitrogen and Farm Environment Plans; and
 - (d) Enterprise.

4. FARM ENVIRONMENT PLANS AND ACTIVITY STATUS

- 4.1 In my Block 1 evidence, I stated that Miraka supports the use of Good Farming Practice, FEP and Certified Industry Schemes (CIS) to achieve Plan Change 1 outcomes as they are key elements of practice change on farm.
- 4.2 I also highlighted Miraka's experience in designing, implementing and evolving an on-farm Quality Assurance Programme (Te Ara Miraka) that includes environmental objectives and required practices/actions.
- 4.3 Miraka is therefore, very supportive of the emphasis that the Section 42A report places on FEPs as being the primary driver of targeted (specified) practice change and improvement in water quality. As outlined in our Block 2 case, Miraka is also very supportive of CIS¹ and seeks Permitted Activity status for those properties/enterprises that operate within a CIS and have an approved FEP.
- 4.4 From my perspective there are a number of different approaches to the issues of Schedule 1, FEPs and activity status outlined in the Section 42A report and the evidence of other parties. The primary evidence in Block 3 of Ms Hardy referred to the principles of some of those approaches. In summary:
- (a) One approach is that the content of FEPs be guided by the objectives and principles contained in Schedule 1 of the Section 42A report. This approach

¹ It provides a collective approach that will lead to more efficient and effective implementation Plan Change 1. This has benefits in terms of reduced costs and greater support for land managers.

provides some flexibility to deal with varying circumstances on different properties.

- (b) However, the dilemma with this position is that the objectives/principles approach in Schedule 1 is tied to a Controlled Activity status. This effectively means a two staged process of approval by a CFEP and consenting by a Waikato Regional Council officer and therefore, reduces the efficiency gains provided by a CIS.
- (c) It seems clear from the Panel's questions and the response in the evidence of several submitters that there is discomfort with an objective/principles approach to an FEP linked to a Permitted Activity status for farming under a CIS. The concern seems to centre around the degree of discretion available to a CFEP and land manager in specifying the actions required to mitigate contaminant risks. If actions and requirements are more tightly specified, the flexibility to deal with varying circumstances is thereby reduced.

- 4.5 Miraka has carefully considered the competing considerations and the evidence provided.
- 4.6 The ideal outcome, which aligns most closely with Miraka's values, would be for an objective/principle approach to Schedule 1 with a permitted activity status for farming within a CIS. That would give the best of both worlds by allowing flexibility for tailored FEPs to meet the individual circumstances of each farm while avoiding the demanding requirements of a full consenting regime. The evidence of Mr Grant Eccles (Federated Farmers) outlines how such an approach could be incorporated into the Plan. Further technical detail that incorporates this approach is provided in Ms Addenbrooke and Ms Hardy's rebuttal evidence and in their track change version of Schedule 1.
- 4.7 However, Miraka is conscious of concerns that such an approach may contain too much discretion. As an alternative, Miraka would support an approach whereby Schedule 1 specifies clear actions and minimum standards that an FEP would need to commit to in order to achieve a permitted activity. Where an enterprise can demonstrate in a review that it has complied with those actions and minimum standards and operates within a CIS then permitted activity status is retained. Enterprises that do not meet part or all of those actions or standards (as determined by a CFEP) would be required to seek a controlled activity consent.
- 4.8 This approach would give certainty to many farmers through clear standards, but also provide flexibility for a CFEP to identify tailored actions to address significant risks;

and flexibility for land managers to elect to obtain a controlled activity consent when they are not in a position to meet certain standards or, due to farm-specific factors, are not currently able to implement some actions and minimum standards. Further technical detail incorporating this approach are provided in Ms Addenbrooke and Ms Hardy's rebuttal evidence and in their track change version of Schedule 1A.

- 4.9 This approach is similar to that outlined by Mr Willis (Fonterra). Overall, his evidence is well thought out from the perspective of the significant implementation burden that land managers and WRC face. I note that the specific actions included in Schedule 1A of his evidence are proposed as working examples that can be considered in a CIS – Permitted Activity scenario. Ms Addenbrooke in her rebuttal evidence has provided an alternative example of specified actions. If this approach to CIS -Permitted Activity is accepted, I recommend that expert conferencing be undertaken to determine these specific actions and minimum standards.
- 4.10 An important aspect of the approach outlined in paragraph 4.7 is that some discretion is available to CFEPs. A key discretionary aspect is the timeframes within which land managers are expected to implement actions. The timing and extent of change will need to take into consideration other personal and business factors (e.g.: financial, labour and tenure of the management of that property) that will determine the land managers' ability to undertake the required actions.
- 4.11 Where there is a need under a CIS - Permitted Activity scenario to move outside a specified set of action and minimum standards, the controlled pathway suggested by Mr Willis (8.5) is sensible. This provides the opportunity to deal with new risks and solutions and adapt the necessary actions.

5. CERTIFIED FARM ENVIRONMENT PLANNERS

- 5.1 As indicated in 4.10 above, CFEPs will need some level of discretion to deal with different circumstances that sit within the personal and business goals of the land manager. I agree with Mr Millner (Federated Farmers) that a CFEP will be better placed than a consenting officer to make that expert judgement while operating within defined bounds. Therefore, the challenge is to ensure that there is consistency and integrity in the CFEP performance.
- 5.2 In my view, robust auditing of CFEP performance by WRC is essential. Under such circumstances, it is highly unlikely that a CFEP would risk their professional standing and income stream associated with their formal certification to compromise the quality of their advice, the content of their certified FEP's and the integrity of their follow up

reviews of land manager actions. A CIS would provide an additional layer of oversight in terms of CFEP performance.

5.3 Given the rigour of the certification process proposed, I would suggest that during the Stage 1 timeframe, the number of CFEPs will be low and while likely sufficient to meet land user compliance demands over the notified FEP registration period, their services will be in demand and in short supply in the short term.

5.4 In my view the best outcomes towards meeting Stage 1 objectives via the FEP process will be through a strong collaborative partnership between the land manager and a CFEP, whereby the CFEP understands all the factors and tensions that determine how and when required contaminant risk mitigation actions can be undertaken. Mr Dragten (WRC) has expressed a similar view. On this basis, there is real value within a CIS that the certifying CFEP also carries out regular reviews of progress in implementation of the actions in the plan. Section 42A report proposed that an A-D review rating approach be used to determine review frequency, but it is our experience with Te Ara Miraka that annual reviews have value through providing on-going encouragement and support to land managers.

5.5 I support the recommendation of the Section 42a report for Block 3 as well as the commentary from Mr Lee Matheson (NZIPIM – Waikato Branch) that to provide the greater community confidence in the CFEP framework, a WRC representative with the equivalent training and skill set of a CFEP, then audits a randomised selection of every CFEP's certified FEPs and follow up reviews against the plan criteria. Failure to meet the performance standards detailed in the CFEP manual² will result in the loss of certification status; and the immediate review of all FEP's certified by that CFEP by a third party CFEP. Ms Hardy in her rebuttal evidence has provided track changes to Schedule 1 to better reflect this audit requirement.

6. NITROGEN AND FARM ENVIRONMENT PLANS

6.1 Section 42A report and numerous submissions on FEPs make reference to and retain the use of an NRP based on Overseer leached estimates and the 75th percentile rule in Schedule 1. This is despite the Section 42A report (Dragten) stating that "Implementation of the 75th reduction target remains somewhat problematic". Miraka agrees with that view and still maintains that the 75th percentile rule is inequitable and a pre-emptive allocation regime.

² As referred to on page 5 of the Dragten Report, page 57 of the section 42A Report.

- 6.2 Miraka supports the determination of an NRP to provide a baseline indication of the nitrogen loss status of an enterprise. However, we have advocated in Block 2 evidence that an effective NRP should be based on a Nitrogen Surplus measure as this best reflects the practices occurring on farm. This position is reflected in the changes that Ms Hardy has previously made in her planning evidence.
- 6.3 I agree with Mr Lynch (WRC) that a baseline NRP and on-going Overseer of estimates of nitrogen leached are not in themselves an adequate basis for rule compliance. As stated in the Section 42A report, other indicators relating to changes in practice (e.g.: fertiliser and supplementary feed inputs, stocking rates) can be used to judge whether actions have been taken to reduce nitrogen loss. “Actions implemented” should be the basis of assessing progress. The Nitrogen Risk Scorecard proposed by Mr Allen is one further tool that can help assess progress, but I do not support it being placed in Schedule 1A as a mandated use.
- 6.4 Ms Taylor (Ravensdown) supports the above position by seeking the removal of any reference to the 75th percentile; and that FEPs are constructed, implemented and reviewed “in a manner that demonstrates clear and enduring commitment to reductions of nitrogen”. This principle is a good example of where flexibility in required actions and confidence in the assessment of CFEPs will be important.

7. ENTERPRISE

- 7.1 I note that Theland Tahī et al and Wairakei Pastoral Limited support the retention of Enterprise within Plan Change 1 and that the benefits outlined by Mr Chrisp (Theland Tahī et al) are similar to those that I provided in my Block 3 evidence.

Grant Ian Jackson

19 July 2019