

**BEFORE INDEPENDENT COMMISSIONERS**

**UNDER**

the Resource Management Act 1991

**IN THE MATTER**

of Proposed Plan Change 26 to the Operative Waipā  
District Plan

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**STATEMENT OF EVIDENCE OF SUZANNE O'ROURKE ON BEHALF OF  
FONTERRA LIMITED**

**CORPORATE**

**6 APRIL 2023**

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## 1. INTRODUCTION

- 1.1 My name is Suzanne O'Rourke.
- 1.2 I am the National Environmental Policy Manager for Fonterra Limited's ("**Fonterra**") New Zealand Operations.
- 1.3 In my current role, I primarily manage and coordinate Fonterra's involvement in resource management and strategic growth policy and plan development processes that affect its 28 New Zealand-based manufacturing sites and three storage and distribution centres. Central to this role is ensuring that policy and planning development processes provide for the protection of these assets and their operations from potential reverse sensitivity effects associated with the establishment of incompatible (ie sensitive) land uses.
- 1.4 I hold a Bachelors of Arts (Honours) from Canterbury University and a Postgraduate Diploma in Resource and Environmental Planning from Waikato University.
- 1.5 I have been working in the resource management field for 23 years.
- 1.6 I joined Fonterra as the National Environmental Policy Manager in November 2021. 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 Waipā District Council reviewing and approving District Council resource consent applications.
- 1.7 I also worked as a consultant at AECOM (then Maunsell) 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.
- 1.8 I am a full member of the New Zealand Planning Institute.

- 1.9 I am a certified Resource Management Act 1991 decision maker through the Making Good Decisions programme provided by the Ministry for the Environment.
- 1.10 I am authorised to provide this statement on behalf of Fonterra.

**Scope of evidence**

- 1.11 Plan Change 26 to the Waipā District Plan ("**PC26**") affects Fonterra's dairy manufacturing sites at Te Awamutu and Hautapu (including Fonterra's spray irrigation farms).
- 1.12 My evidence will provide a summary of:
- (a) Fonterra's manufacturing interests in the Waipā District;
  - (b) Fonterra's approach to managing the potential for reverse sensitivity effects imposing constraints on its manufacturing sites; and
  - (c) The strategic planning approach adopted by Fonterra in its submissions and further submissions on PC26.

**2. EXECUTIVE SUMMARY**

- 2.1 Fonterra supports urban growth and the on-going economic development of the Waipā District. Fonterra understands that enabling housing supply along with housing intensification is a necessary step. However, Fonterra considers that further refinement is required to ensure that urban development and intensification occurs in a manner that minimises land use conflicts as far as practicable, including avoiding or minimising the potential for reverse sensitivity effects.
- 2.2 Reverse sensitivity occurs where established, effects-generating activities (eg industrial land uses) are subject to greater restrictions on their operations due to new sensitive activities locating nearby. Those sensitive activities make complaints about environmental effects, become involved in planning processes (such as this one), and tend to be vocal when notified of resource consent applications to modify those industrial activities. This challenges the ability of industrial operations to continue let alone expand. This is a significant issue for Fonterra's dairy factories around New Zealand. Clearly, the more sensitive uses close to Fonterra's dairy factories, the greater the probability of reverse sensitivity arising.

- 2.3 Avoiding reverse sensitivity better allows for well-functioning urban environments. Sensitive (including residential) activities should not be located near major industrial facilities. While that may seem obvious, it is a constant issue facing Fonterra.
- 2.4 Fonterra's activities are protected from sensitive activities by: establishing noise control boundaries and ensuring that sensitive activities located inside those boundaries are acoustically insulated; and by ensuring appropriate zoning and controls to limit the density of sensitive development near industrial activities.
- 2.5 PC26 incorporates measures to ensure properties within noise control boundaries remain acoustically insulated. In addition, Fonterra seeks reverse sensitivity be included as a Qualifying Matter to ensure that there is not excessive intensification around the Te Awamutu dairy manufacturing site.

### **3. FONTERRA IN THE WAIKATO REGION**

- 3.1 Fonterra is a global leader in dairy nutrition and is the preferred supplier of dairy ingredients to many of the world's leading food companies. Fonterra is New Zealand's largest farming co-operative and a significant employer, with more than 11,000 New Zealand based staff and more than 7,500 employees based overseas.
- 3.2 Fonterra has eight dairy factories located within the Waikato Region. Two of these, Te Awamutu and Hautapu are located in the Waipā District and will be affected by PC26. I provide further detail on those dairy factories below.

#### **Te Awamutu Dairy Factory**

- 3.3 The Te Awamutu Dairy Factory has operated at the site for almost 140 years and employs more than 330 people. Fonterra's operations at Te Awamutu include the primary manufacturing site, a dry store facility and a transport and logistics hub.
- 3.4 The site processes up to 3 million litres of milk (peak) from Fonterra farmer shareholders every day during the milk production season. There are a total of 3 plants which produce a range of whole milk powders, butter and milk fat. It is the sixth largest producer of dairy ingredients in New Zealand, and the main buttermilk producer in the Waikato Region.

- 3.5 The site also provides storage of the finished product and has associated distribution facilities. Wastewater is treated onsite via an existing wastewater treatment plant to the north of the existing Te Awamutu Dairy Factory buildings.
- 3.6 The Te Awamutu Dairy Factory is located within the urban area of Te Awamutu and is surrounded by residential activities, including residential zoned land immediately to the east, south and west. The existing residential area immediately to the east is directly adjacent to the Te Awamutu Dairy Factory site. Similarly, the existing residential areas to the south and west are located in close proximity to the Te Awamutu Dairy Factory site (on the opposite side of Factory Road to the west, and Alexandra Street to the south).
- 3.7 The reason for the Te Awamutu Dairy Factory being located in an urban area is due to the growth of the Te Awamutu township. The Te Awamutu Dairy Factory was originally established on the town boundary with the railway line forming the township boundary. Housing established from this time, being the housing between Alexandra Street and Factory Road, and extending east to Wynyard Street, was used to house the dairy company workforce. Over time this housing has been divested. The residential areas developed to the west of the Dairy Factory bordered by Alexandra and Frontier Streets has been established in the decades after the establishment of the Dairy Factory. This development means the Te Awamutu Dairy Factory is now located within an area that is highly urbanised.
- 3.8 Given the location of the Te Awamutu Dairy Factory, it is constrained in its ability to provide secure processing capacity due primarily to reverse sensitivity matters, such as noise limits and restrictions on vehicle numbers entering and exiting. Future development and reinvestment in Te Awamutu could potentially be hindered due to the significant costs associated with internalising the adverse effects associated with manufacturing.
- 3.9 The noise emissions at Te Awamutu (and Hautapu) sites are also managed through a Memorandum of Understanding ("**MoU**") established between Waipā District Council and Fonterra. The current MoU is dated August 2015 and versions of the MoU have been in place since 1997. The MoU is intended to provide a specific approach within the Waipā District to both "manage noise generated from the Sites" and includes the "expectation that Fonterra would focus on improvements and upgrades to continuously reduce and minimise that noise". To comply with the MoU Fonterra must (amongst other matters) maintain a Noise Management Plan, manage a complaints procedure, offer noise assessments and acoustic mitigation to maintain reasonable internal noise levels and undertake annual noise monitoring and submit monitoring

results to Council. The MoU both ensures noise generated by Fonterra's activities is reasonable and that neighbouring landowners do not experience a level of noise that is unreasonable. In turn the MoU fulfils the obligation on Fonterra set out in s16 of the RMA s16 to avoid unreasonable noise.

### **Hautapu Dairy Factory and spray irrigation farms**

- 3.10 The Hautapu Dairy Factory has operated at the site for more than 130 years and employs over 300 people.
- 3.11 The site processes up to 3.3 million litres of milk (peak) from Fonterra farmer shareholders every day during the milk production season. The site contains 8 plants, which produce a range of cheese products and other high-value products including casein, whey products, lactoferrin and milk protein concentrate.
- 3.12 The site also provides storage of the finished product and has associated distribution facilities. Wastewater associated with the dairy factory activities is spray irrigated onto rural farmland within the surrounding area.
- 3.13 The Hautapu Dairy Factory is located approximately 1 kilometre north of the nearest Residential area (located immediately to the south of the Waikato Expressway). The nearest site utilised for spray irrigation activities associated with the dairy factory site is located approximately 200m from the nearest residential area (located immediately to the south of the Waikato Expressway). The spray irrigation farms in Waipā District are Fencourt (at 626, 1/620 and 2/620 Fencourt Road), Buxton (308, 362 and 408 Fencourt Road) and Bardowie (185 and 195 Swayne Road).

### **Continual improvement in environmental performance of the dairy factories**

- 3.14 Fonterra is committed to increasing efficiencies and reducing emissions associated with milk collection and its subsequent processing. Fonterra has invested heavily in technologies and systems to operate at a level above compliance, and has worked hard to engage with the surrounding communities.
- 3.15 A key method for achieving this is through the certification and implementation of an environmental management system (EMS), which is certified to the ISO 14001:2004 standard.<sup>1</sup>

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<sup>1</sup> 21 of Fonterra's New Zealand-based manufacturing sites are certified to ISO 14001:2004, and will transition to the 2015 standard over the next 14 months.

- 3.16 The ISO standard provides the framework for improving environmental performance over time. It does this by, amongst other things, embedding an ethos around continuous improvement (plan-do-check-adjust cycles) into the company's systems and culture, considering a life-cycle perspective, and ensuring that the site understands the needs and expectations of its stakeholders and community.

#### 4. FONTERRA'S APPROACH TO REVERSE SENSITIVITY

##### Potential reverse sensitivity effects on Fonterra

- 4.1 Reverse sensitivity refers to the vulnerability of established, effects-generating activities (ie 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.<sup>2</sup>
- 4.2 Importantly, reverse sensitivity and its associated complaints arise in the context of *compliant* activities, being those activities that are authorised by way of resource consent and/or comply with permitted activity standards in regional and district plans. Like other major industrial operators, reverse sensitivity issues can, and do, affect Fonterra's activities regardless of our compliance with these planning instruments. This is because it is often the perception of effects, rather than actual effects, that leads to complaints from sensitive land users.
- 4.3 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, with increased encroachment by sensitive and smaller landholdings within proximity of its manufacturing sites, when it comes to notifying consent applications and the number of affected parties, and the potential for complaints and other reverse sensitivity effects, the corresponding costs for Fonterra will continue to increase.
- 4.4 When residential neighbours enter a new residential environment, their amenity expectations are typically congruent with those found in a *residential* environment – being primarily the absence of non-residential activities and their associated effects (ie noise, lighting, visual amenity and traffic generation)

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<sup>2</sup> Examples outside Fonterra include Western Springs Speedway, Eden Park, the Whenuapai Air Base, and Meadow Mushrooms.

during night-time hours, and on Sundays and public holidays when they wish to enjoy their residential property.

- 4.5 Reverse sensitivity effects generally result from complaints by just a few residents. Allowing even a small degree of sensitive development near an existing activity can cause significant issues, and the risk of receiving complaints increases as the number of nearby occupiers 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. The effects of such complaints have, in Fonterra's experience, included:
- (a) higher compliance costs to mitigate effects on sensitive neighbours;
  - (b) the diversion of staff time to address complaints, and time that is normally attributed to day-to-day operations; and
  - (c) materially increased consenting costs.

#### **Examples of reverse sensitivity effects on Fonterra**

- 4.6 The potential for reverse sensitivity effects to occur can and does affect Fonterra's manufacturing operations as well as the company's decisions to continue to invest and reinvest at our sites. For example, when considering the location of new development, the ability to operate a multi-million dollar asset *half of the time* due to operational constraints imposed on it due to the sensitivity of a surrounding residential environment (eg Te Awamutu), is viewed unfavourably by Fonterra. This is especially the case when compared to sites like Lichfield in the South Waikato District, which lacks the presence of sensitive activities and has a supportive policy and planning framework underpinned by years of investment by the Council, community and other parties – including Fonterra.
- 4.7 There are many other instances of reverse sensitivity affecting Fonterra's operations. These examples are set out below.

#### ***Hautapu***

- 4.8 The issue of reverse sensitivity was demonstrated recently in respect of the Hautapu Dairy Factory through a resource consent application process that sought to authorise the discharge of odour to air from a proposed wastewater treatment facility located at the Hautapu Site. The following is a comment made by a member of the Hautapu Residents Group in a newspaper article in



respect of the consent process which, in my view, clearly demonstrates reverse sensitivity:<sup>3</sup>

We know the factory has been there for more than 100 years and it's in a long-time industrial zone...

But there are now more than 50 homes as its neighbours and some are just a few hundred metres away from the site.

Maybe this is not the right place for the factory anymore.

### ***Te Rapa***

- 4.9 The Te Rapa Dairy Factory Manufacturing Site (*Te Rapa Site*) is located on the western side of the Waikato River within the boundary of Hamilton City Council. However, the effects of the Te Rapa Site extend to the eastern side of the Waikato River and this area is within the boundary of Waikato District Council. Activities within Waikato District are governed by the Operative (*OWDP*) and Proposed Waikato District Plan (*PWDP*). The various chapters of the *PWDP* were notified and heard by Council from 2018 to 2021 and decisions were issued on 17 January 2022. Fonterra was a submitter on the *PWDP* provisions insofar as they related to the Te Rapa site.<sup>4</sup>
- 4.10 The provisions within the *OWDP* offer minimal protection to address reverse sensitivity activities on the Te Rapa site. The *OWDP* Planning Maps (*Planning Maps*) identify a Fonterra Noise Control Boundary (*NCB*) that overlays properties within Waikato District. The planning maps include the annotation "Fonterra Noise Control Boundary Information Only".
- 4.11 There are no other provisions that address reverse sensitivity effects on the Te Rapa site. That is, beyond identifying the *NCB*, there are no further measures requiring developments to actually respond to the *NCB*. For example, there are no rules that address noise effects by requiring sensitive activities within the *NCB* to have acoustic insulation treatment, or to obtain resource consent or to consult with Fonterra. The planning map overlay functions only as a signal to prospective developers that their site is located within the *NCB*. This situation has created issues for new development within the *NCB*. I discuss one such example below.

<sup>3</sup> <https://www.stuff.co.nz/environment/126775336/dairy-factorys-rural-neighbours-preparing-for-battle-over-wastewater-plant>

<sup>4</sup> For completeness, I note that the *PWDP* review process is ongoing with Fonterra lodging an appeal against the decisions version of the District Plan.

- 4.12 A recent proposal sought to erect a principal dwelling, and a secondary dwelling at a vacant site within the NCB. Following lodgement of the application the applicant was advised they needed to obtain written approval from Fonterra as a potentially affected party. Fonterra also discussed this matter with Waikato District Council planning staff. Fonterra entered into discussions with the applicant to work through this matter including consideration as to how reverse sensitivity effects could be addressed at the site. Discussions proceeded to the point whereby Fonterra had its solicitor draft a no-complaints covenant for the site.
- 4.13 Then, with no prior notice, Fonterra was advised by planning staff that consent had been granted. This change in approach omitted Fonterra from the formal resource consent process and removed the ability for Fonterra to achieve any outcomes that would address reverse sensitivity effects such as acoustic treatment. The decision introduced a new neighbour into the NCB - one who may be particularly sensitive or who may compromise future activities at the Te Rapa site.
- 4.14 This example illustrates the issues that can arise when provisions in a District Plan are unclear, are not robust and are open to different interpretations from different staff. Without having rules included in the District Plan to accompany the NCB, there is confusion amongst Waikato District Planning staff as to how to apply the NCB in practice. In particular, there have been differing messages as to whether Fonterra can be deemed an affected party, and protracted conversations to work through the issues have proved time consuming and ultimately non-productive.
- 4.15 Te Rapa Dairy Factory (located in the nearby Hamilton City District) has also faced greater constraints from nearby residential development occurring in the Hamilton District. The Te Awa Lakes development is a medium density residential and mixed use development located only 325m north of Te Rapa Dairy Factory. The development includes up to 1,100 residential units enabled by a plan change to the Hamilton City District Plan despite Te Rapa North being specifically identified in planning documents as an important industrial area. This number of residential properties in close proximity to the Te Rapa Dairy Factory will almost certainly cause reverse sensitivity effects. For example, at the same time that the proponents of the Te Awa Lakes proposal were pursuing their private plan change and contending that it would not result in any reverse sensitivity effects, they lodged a submission on a Fonterra discharge renewal application seeking that all effects be internalised within the Fonterra site.

### ***Mosgiel***

- 4.16 The Dunedin City 2nd Generation District Plan (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. The consent order confirmed the Noise Control Area as sought by Fonterra.
- 4.17 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.
- 4.18 It is these types of issues that PC26 must avoid.

### **Fonterra's approach to managing reverse sensitivity effects**

- 4.19 For Fonterra (like other major industries and rural activities), a key mechanism to ensure potential reverse sensitivity conflicts are avoided or managed is the policy and plan development process provided under the Resource Management Act 1991 ("**RMA**"). These processes require significant investment by the relevant council, on behalf of the community, and resource users within the relevant district or region.
- 4.20 Fonterra proactively engages in processes like this one to ensure that the framework guiding the future use of our land and associated assets is

recognised and provided for, subject to ensuring that significant adverse effects are avoided or can otherwise be appropriately managed.

4.21 As set out in the evidence of Mr Chrisp, Fonterra has sought and been successful in securing a range of measures in district plans around New Zealand (including in the Waipā District Plan) to protect its dairy factories from reverse sensitivity effects. These measures include:

- (a) Objectives and policies requiring protection from reverse sensitivity effects.
- (b) Controlling the development of sensitive activities in proximity to its factories. For example, through appropriate zoning of surrounding properties and appropriate standards to minimise the establishment of sensitive activities, such as through rules requiring larger subdivision lot sizes.
- (c) Ensuring activities that are sensitive to the types of effects generated at dairy factories are set back a minimum distance (demarcated by a noise control boundary or other setback zone) from those factories.
- (d) If sensitive activities locate within a noise control boundary, then those activities are required to incorporate acoustic insulation as part of building design and construction.
- (e) Establishing a framework that manages activities on sites surrounding the Hautapu and Te Awamutu Dairy Manufacturing sites where they could adversely affect their operations.

4.22 All of the above measures decrease the risk of adverse amenity effects on a development and therefore reduce the potential for reverse sensitivity effects arising. These matters are required to be retained to continue to protect the ongoing operation and future expansion of Fonterra's dairy factories.

## **5. PC26**

5.1 Fonterra supports having greater housing choice and affordability. However, that housing must be located appropriately. For instance, it is inappropriate to have medium or high density housing close to a dairy factory.

5.2 Fonterra supported the provisions of PC26 that manage reverse sensitivity concerns. In particular, PC26 incorporate measures to ensure new sensitive

activities within noise control boundaries are required to be appropriately acoustically insulated.

- 5.3 Fonterra has sought some additional changes to PC26 so that it better protects the dairy factories from reverse sensitivity. Those changes include provisions that require councils to consider reverse sensitivity when determining resource consent applications.
- 5.4 In addition, Fonterra has sought that reverse sensitivity is included in PC26 as an additional Qualifying Matter called the Reverse Sensitivity Qualifying Matter. The purpose of the Reverse Sensitivity Qualifying Matter is to limit the extent of intensification of residential activities enabled around the Te Awamutu dairy factory.
- 5.5 Fonterra has been mindful of the intention behind the Medium Density Residential Standards. Accordingly, the Reverse Sensitivity Qualifying Matter will still allow intensification of the area around those dairy factories, but not to the extent contemplated by the Medium Density Residential Standards. Fonterra considers that its proposal, which will still enable a potential doubling of density compared to the status quo finds the appropriate balance between enabling housing supply and recognising the significance and sensitivity of the Fonterra site.

## **6. CONCLUSION**

- 6.1 Fonterra seeks specific protection from reverse sensitivity effects through its requested relief, including through the establishment of a new reverse sensitivity qualifying matter.

**Suzanne O'Rourke**

**6 April 2023**