

Before Hearing Commissioners at Palmerston North

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*under:* the Resource Management Act 1991

*in the matter of:* Submissions on Chapters 6, 13 and 15 of the Proposed One Plan – the Consolidated Resource Policy Statement, Regional Plan and Regional Coastal Plan for the Manawatu-Wanganui Region

*between:* **Fonterra Co-operative Group Limited**  
*Submitter*

*and:* **Manawatu-Wanganui Regional Council**  
*Respondent*

Legal Submissions for Fonterra Co-operative Group Limited at hearing on Water Chapters of the Proposed One Plan

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Dated: 19 February 2010

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**CHAPMAN  
TRIPP** 

## LEGAL SUBMISSIONS FOR FONTERRA CO-OPERATIVE GROUP LIMITED AT HEARING ON WATER CHAPTERS OF THE PROPOSED PLAN

### INTRODUCTION

#### Background

- 1 Fonterra Co-operative Group Limited (*Fonterra*) is grateful for this opportunity to present legal submissions and evidence on Chapters 6, 13 and 15 (collectively *the Water Chapters*) of the Proposed One Plan – the Consolidated Resource Policy Statement, Regional Plan and Regional Coastal Plan for the Manawatu-Wanganui Region (*Proposed Plan*). The management of water quality and quantity is a major challenge facing the Manawatu-Wanganui Regional Council (*Horizons or the Council*), dairy farmers, food processors and the community.
- 2 Fonterra has a significant interest in the Proposed Plan and in particular, these Chapters, because of their substantial impact on, and implications for, dairy farms and milk processing facilities within the Manawatu-Wanganui Region (*the Region*). Pastoral activities make a significant contribution to both the Region’s economic and social landscape.
- 3 Essentially, Fonterra considers that the package of planning provisions proposed by the Council for the Water Chapters does not promote the purpose of the Resource Management Act 1991 (*RMA or the Act*). In its view, too radical a change in land use practices is being demanded too quickly by Horizons, and without sufficient justification or research to support their introduction, nor sufficient assessment of their costs and benefits. A better managed transition is required, given the significant impacts of the Council’s proposals on the dairying industry. Fonterra’s submission and further submissions on the Proposed Plan focussed on these issues.
- 4 Fonterra has already presented legal submissions and evidence in relation to other Chapters of the Proposed Plan. These submissions do not repeat that material. However, many of the concerns previously raised will be built upon in these submissions.<sup>1</sup>

#### Fonterra’s operations

- 5 Fonterra is New Zealand’s largest company, accounting for 23% of New Zealand’s total export earnings and 95% of New Zealand’s dairy production. Fonterra operates 23 dairy processing plants in New Zealand and employs over 18,000 people.<sup>2</sup>

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<sup>1</sup> For example, concerns about the section 32 analysis, water allocation and water quality rules were raised in submissions and evidence at the earlier hearing on the Overall Proposed Plan. However, it is not necessary to re-consider those submissions and evidence in order to understand the submissions and evidence presented for Fonterra today.

<sup>2</sup> Statement of evidence of Dr John Russell, dated 30 October 2009, para 15.

- 6 The Manawatu-Wanganui Region makes a significant contribution to New Zealand's dairy industry, providing approximately 7% of New Zealand's milk production. 878 dairy farmers within the Region supply milk to Fonterra. Fonterra also employs 635 staff<sup>3</sup> and operates milk processing sites at Pahiatua and Longburn and a world class research institution in Palmerston North.
- 7 Fonterra is dedicated to ensuring that it undertakes its business in a sound and environmentally responsible manner, as reflected in Fonterra's Business Strategy and new Sustainability Strategy.<sup>4</sup> Fonterra is also committed to encouraging its dairy farm suppliers towards better environmental performance. Mr Newland's evidence describes programmes, including the Dairying and Clean Stream Accord, which Fonterra has developed to promote sustainable dairy farming.<sup>5</sup> Fonterra has had real success with these programmes to-date, and expects that they will continue to produce meaningful results, assisting Horizons in meeting its water quality aspirations for the Region.

### **The Region**

- 8 Pastoral farming is central both to the economy and social make up of the Region, as Mr Newman explains in his evidence.<sup>6</sup> Agricultural properties also contribute to the amenity and visual landscape of the Region.
- 9 Dairy farming is predicted to continue to make a major contribution to the regional economy for the long term and certainly the life of the Proposed Plan. However, Horizons' Officers' fears of an "explosion" in dairy farming are simply unfounded. Mr Newman's evidence is that growth is expected to continue at the same modest rate as the previous decade.<sup>7</sup>
- 10 The Region is highly significant for Fonterra's supply and manufacturing operations and for New Zealand's dairy industry more generally. The Proposed Plan will affect these pastoral operations greatly.

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<sup>3</sup> Statement of Evidence of Sean Newland, dated 30 October 2009, para 19.

<sup>4</sup> Statement of Evidence of Sean Newland, dated 30 October 2009, para 22.

<sup>5</sup> Statement of Evidence of Sean Newland, dated 30 October 2009, paras 25-58.

<sup>6</sup> Statement of evidence of Matthew Newman, dated 30 October 2009, paras 23-29.

<sup>7</sup> Statement of evidence of Matthew Newman, dated 30 October 2009, para 42.

## OUTLINE OF SUBMISSIONS

- 11 In these submissions, I will discuss the following matters:
- 11.1 The section 32 analysis carried out by the Council;
  - 11.2 The water quality provisions of the Proposed Plan;
  - 11.3 The water quantity provisions of the Proposed Plan; and
  - 11.4 Fonterra's evidence and witnesses.
- 12 The relevant statutory provisions are discussed in the context of the matters under consideration. Counsel agrees with counsel for Horizons that the Panel must apply the provisions of the RMA as they existed prior to enactment of the Resource Management (Simplifying and Streamlining) Amendment Act 2009.<sup>8</sup> Mr Willis' evidence considers Fonterra's suggested amendments to the Proposed Plan in the context of Part 2 of the Act.<sup>9</sup> That assessment is not repeated in these submissions.

## SECTION 32 ANALYSIS

- 13 Before discussing the proposed Water Chapter provisions, Fonterra wishes to re-iterate its concerns as to the adequacy of the Council's section 32 assessment.
- 14 In its previous submissions,<sup>10</sup> Fonterra raised significant concerns with the adequacy of the section 32 analysis that had been carried out by Horizons. Similar concerns about the quality of analysis undertaken were also raised in the evidence of Mr Hammond, for the Ruapehu District Council and Mr Peterson, on behalf of Mighty River Power.
- 15 In response to such submissions and evidence, the Hearing Panel Chairperson concluded that:<sup>11</sup>

*"further section 32 analysis is needed to enable the panels to perform their statutory functions properly, particularly in relation to water quality, water quantity and highly erodible land issues."*

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<sup>8</sup> Section 161 of the Amendment Act.

<sup>9</sup> Statement of evidence of Gerard Willis, dated 30 October 2009, paras 122-129.

<sup>10</sup> Opening legal submissions on behalf of Fonterra Co-Operative Group Limited, 2 July 2008.

<sup>11</sup> Chairperson's Minute, dated 10 July 2008.

16 Further, the Chairperson directed that:<sup>12</sup>

*"We ask that the parties consult among themselves (perhaps with relevant lawyers taking the lead, if that is suitable to them) with a view to agreeing on appropriate matters to be dealt with in the further section 32 analysis, the manner in which that analysis should be undertaken and the type of expertise required by those who will undertake it."*

- 17 Following receipt of this direction, Fonterra wrote to counsel for Horizons suggesting persons with the necessary expertise to carry out the section 32 analysis. This letter is attached as **Appendix A**. To counsel's knowledge, no further section 32 analysis has been undertaken. Indeed, I infer from the Supplementary Evidence of Mr Greg Carlyon<sup>13</sup> that Horizons has no intension of carrying out a further section 32 analysis.
- 18 Fonterra remains concerned that a robust cost benefit analysis, and a comprehensive analysis of available alternatives, have not been carried out. What little analysis has been undertaken simply does not demonstrate that the proposed rules are the most cost effective choice to achieve the outcomes sought. Messrs Newland and Newman discuss this issue further in their evidence.<sup>14</sup>
- 19 The Horizons section 32 analysis only provides an assessment of costs and benefits of the Proposed Plan, versus doing nothing – and even on these counts, the assessment is shallow to say the least. As Mr Newman's evidence demonstrates, it is unclear whether alternatives to Rule 13-1, such as non-regulatory initiatives to achieve agreed targets, or different regulatory approaches were even considered in this evaluation.<sup>15</sup> It is also unclear whether there has been any robust analysis of the water values being couched in terms of the various options, and the varying social and economic outcomes that would flow from each one.<sup>16</sup>
- 20 The public has not been provided with adequate information to assess the costs, benefits, achievability and regional consequences of the Proposed Plan's targets.<sup>17</sup> Quite simply, Horizons has failed to demonstrate that the benefits to society outweigh the costs of regulation in the manner proposed. Good regulatory practice has not been followed in this case.

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<sup>12</sup> Chairperson's Minute, dated 10 July 2008.

<sup>13</sup> Para 12.

<sup>14</sup> Statement of evidence of Sean Newland, dated 30 October 2009, paras 59 – 72; Statement of evidence of Matthew Newman, dated 30 October 2009, paras 43-55.

<sup>15</sup> Statement of evidence of Matthew Newman, dated 30 October 2009, para 48.

<sup>16</sup> Statement of evidence of Sean Newland, dated 30 October 2009, para 61.

<sup>17</sup> Statement of evidence of Sean Newland, dated 30 October 2009, para 74.1.

- 21 This is of major concern to Fonterra given the dramatic shift to regulation which is being proposed, with significant costs falling to dairy farmers. Fonterra seriously questions whether there is sufficient information available about the alternatives to implement such a regime. In the circumstances, it is submitted that Rule 13.1 should be removed from the Proposed Plan, and nutrient-loss rules instead be introduced by a future variation or plan change, supported by a robust section 32 analysis.
- 22 Should the Panel disagree with that suggestion, Fonterra seeks amendment of the Proposed Plan in the manner described in Fonterra's evidence and discussed below. Mr Newman's evidence demonstrates that Fonterra's proposed amendments would improve efficiency with less compliance costs required to achieve the environmental outcomes sought.<sup>18</sup>

### **WATER QUALITY PROVISIONS**

#### **Horizons' general approach**

- 23 The Proposed Plan's approach to managing water quality issues is explained in the evidence for the Council, and is also summarised in Mr Willis' evidence.<sup>19</sup> Essentially, the Plan proposes water management zones and subzones, each of which will have specific standards depending on the environmental and community values associated with that zone. Every dairy farm within the targeted water management subzones will be a controlled activity, provided they can comply with the activity standards. It is not clear what the activity status would be for farms which cannot comply with the controlled activity status requirements, but Fonterra assumes these would be discretionary activities.
- 24 Fonterra accepts that some nitrogen loss (*N-loss*) reduction is required, for the future sustainable management of the Region's water bodies. However, Fonterra has significant concerns with the detail of that framework as contained in the Proposed Plan. Dr Scarsbrook discusses the detail of Fonterra's concerns in his evidence.<sup>20</sup>
- 25 It is Fonterra's contention that the Proposed Plan's targets for N-loss reduction within the targeted subzones will require measures which are simply too extreme and inequitable for farmers to cope with.
- 26 Fonterra's concerns with the proposed N-loss regime and the reasoning behind its own proposed alternative are discussed below.

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<sup>18</sup> Statement of evidence of Matthew Newman, dated 30 October 2009, para 19.

<sup>19</sup> Statement of evidence of Gerard Willis, dated 30 October 2009, paras 18.

<sup>20</sup> Statement of evidence of Dr Michael Scarsbrook, dated 30 October 2009.

### **Objectives are neither realistic nor appropriate**

- 27 Plan objectives are broad high level goals. They should be community desired outcomes which are set at a level which is achievable. Objectives should be transparent statements to the community as to what the Proposed Plan seeks to accomplish.<sup>21</sup>
- 28 As Mr Willis' evidence explains, the Proposed Plan water quality objectives for N-loss fail in these key respects, by both over-promising and under-acknowledging the costs to the community of achieving them. Mr Willis recommends that the objectives be remedied and amended so as to:
- 28.1 Be articulated in a manner that recognises their aspirational long term nature; and
- 28.2 Be recast so that they are not so "absolute" and unqualified in their expression.<sup>22</sup>

### **Too much, too soon**

- 29 The regulation of N-loss arising from the discharge of dung and urine to pasture from animals is an entirely new concept in the Manawatu-Wanganui Region. N-loss arising from dairy farming has, to-date, been completely unregulated for some 150 years. It is submitted that counsel for Horizons over-simplified matters when he stated in his Section 42A Report that "regulation has a track record."<sup>23</sup> The track record for regulation of N-loss in New Zealand is very short.
- 30 As Mr Newland explains in his evidence, it is important to remember that dairy farms in the Region were established lawfully and with no expectation that their activities would be regulated in the way now proposed.
- 31 Horizons proposes to embark on a programme to regulate N-loss which is unique in national terms, given its scale and the significance of the obligations which it imposes on farmers. The impact on the regional economy must not be under-estimated. In Fonterra's estimation, a significant proportion of the farming community will be forced into a position of choosing to remain either economically sustainable but non-compliant, or compliant and economically unviable.<sup>24</sup>
- 32 Horizons' position that farmers should effectively fund N-loss reductions contrasts markedly with the conclusion reached by Environment Waikato in relation to Variation 5 – that even capping

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<sup>21</sup> Statement of evidence of Gerard Willis, dated 30 October 2009, para 8.

<sup>22</sup> Statement of evidence of Gerard Willis, dated 30 October 2009, paras 22-26.

<sup>23</sup> S.42A Report by John Maassen in relation to water hearings, 28 August 2009.

<sup>24</sup> Statement of evidence of Sean Newland, dated 30 October 2009, para 13.2.

farm discharges at 2005 levels would cause economic hardship.<sup>25</sup> In his statement of evidence, Mr Newman criticises the assessments of economic impact prepared for Horizons. However, even that limited assessment suggests that the net present cost of meeting the Rule 13.1 Year 1 requirements will be \$93,234 per farm.<sup>26</sup>

- 33 It is critical then that there is careful management of the transition from the current state of land use practice to the future desired state. It is Fonterra's case that the difficulty and challenges associated with that transition have been under-estimated by Horizons; the Council is demanding too big a change in land management practices too quickly. Given the current investment in pastoral activities and the significance of the changes required, there needs to be a reasonable transition period to the regulatory regime to allow farmers to adjust to the new measures. For changes such as those proposed by Horizons, which will constrain land use options and consequently livelihoods, it is essential that the process of setting standards and determining cause and effect are rigorous and follow recognised best practice.

**No urgent need to act**

- 34 The Council's justification for urgent and extensive regulation is based on an assumption that water quality is decreasing and that this will be further exacerbated by a rapid explosion in dairy farming in the Region.
- 35 As Mr Newman's evidence demonstrates, however, despite the significant contribution dairying makes to the economy, growth of dairy farming in the Region has been only modest over the last decade and growth is predicted to continue at that modest level over the next decade.<sup>27</sup>
- 36 Further, Mr Scarsbrook's evidence is that water quality within the targeted zones has not declined in recent years (as some Horizons witnesses suggest), and that water quality improvement is actually occurring in some Region's major rivers.<sup>28</sup> This is confirmed in the Section 42A Report of Mr Graham McBride.<sup>29</sup> Accordingly, there is no need to act to the extreme extent and in the immediate manner proposed by Horizons.

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<sup>25</sup> Review of Policy & Methods for Managing the Cumulative Effects of Intensive Land Uses on Water Quality", Andrea Bell and Rob van Voorthuysen, July 2008.

<sup>26</sup> Section 42A Report of Mr Jeremy Neild and Mr Anthony Rhodes, page 54.

<sup>27</sup> Statement of evidence of Matthew Newman, dated 30 October 2009, para 15.

<sup>28</sup> Statement of evidence of Dr Michael Scarsbrook, dated 30 October 2009, paras 46-54.

<sup>29</sup> Para 20.



### **Less-intensive regulatory methods**

- 37 In light of these factors Fonterra considers that the dairy farming industry should be given the opportunity to explore less-intensive measures. Fonterra's evidence describes these measures as "non-regulatory", but this is not strictly correct. Indeed, the amendments suggested by Fonterra to the Proposed Plan would still make Manawatu-Wanganui the most regulated region in New Zealand in terms of N-loss management. Fonterra's proposal is that N-loss be controlled by a combination of best management practices, education and the setting of sustainable limits.
- 38 Fonterra's proposal that the impact of Rule 13.1 be delayed by 5 years does not convert the Rule into a purely "voluntary" approach, as Counsel for Horizons suggests.<sup>30</sup> Instead, Fonterra sees benefit in giving farmers the opportunity to trial and adopt methods, during the 5 years prior to the Rule taking effect, if in fact a regulatory approach is at that time determined to be necessary. The Rule, as currently proposed or suggested to be amended by Council witnesses, does not allow farmers sufficient time to consecutively introduce best management practices to their properties, so as to determine the marginal contribution of each. Fonterra's approach would give farmers an opportunity to modify their farming systems prior to full regulation being imposed. Fonterra considers that this is more likely to achieve a significant change in behaviour.<sup>31</sup> Farmers will be incentivised to act early to avoid the need to obtain consent for N-loss.
- 39 Fonterra considers that a hybrid of regulatory and non-regulatory methods would be a more appropriate mechanism to achieve the N-loss aspirations of the Proposed Plan.<sup>32</sup> As Dr Parminter explains in his evidence, an entirely regulatory approach will not be the most effective way to get farmer involvement and year-round awareness of the need to control N-loss. The supplementary evidence of Mr Newland explains Fonterra's suggested programme of farmer education. This programme is supported by Dairy NZ (the industry good organisation which represents New Zealand dairy farmers).
- 40 Counsel for Horizons questioned whether Fonterra's suggested farmer education programme could be considered as a "method" for the purposes of the RMA.<sup>33</sup> Method 6-7 of the Proposed Plan as notified already encompasses Fonterra's suggested programme, as discussed in the evidence of Mr Willis.<sup>34</sup>
- 41 By failing to give farmers an opportunity and/or the skills to comply, there is likely to be resistance in the future from the very people

<sup>30</sup> Introductory Submissions for Horizons, paras 35 and 40.

<sup>31</sup> Statement of evidence Sean Newland, dated 30 October 2009, para 81.

<sup>32</sup> Statement of evidence Sean Newland, dated 30 October 2009, para 74.2.

<sup>33</sup> Introductory Submissions for Horizons, paras 35-42.

<sup>34</sup> Statement of evidence of Gerard Willis dated 30 October 2009, paras 77-79.

whose actions the Region's water quality is dependent on. A hasty transition is neither necessary nor likely to build the support required for durable, long term and socially embedded change.<sup>35</sup>

### **Inequity**

- 42 Dairy farms which will be caught by the new nutrient management regime will not all start on an equal footing. There are different starting points for different farms: some start with low N-loss rates, whilst others start with high N-loss rates. In practice, this will mean some will face high costs of compliance from Day 1, whilst others will comply immediately with the 10 year loss entitlements.<sup>36</sup>
- 43 Moreover, the phase-in of water management zones over time, will mean that some dairy farms will have an opportunity to plan for future compliance, while others will be forced to take immediate action.
- 44 Given that all such farms were established lawfully, such inequity is not appropriate. A transition period is required so as to give farmers the opportunity to change their land use practices, before incurring severe economic penalties.

### **Lack of certainty**

- 45 There is a large degree of uncertainty associated with Horizons' N-loss regime. The costs of achieving the objectives of the Water Chapters are to a large extent unknown. Scientific uncertainty also exists over whether, when all the dairy farmers in the Region adopt best management practices, there will be the expected improvement in water quality measures.<sup>37</sup>
- 46 The evidence provided is also unclear as to how many farms will not be able to comply with the N-loss values in Table 13.2. Little evidence has been presented by Horizons as to how many existing farms will comply, despite that being fundamental to determining the costs of the regime. Fonterra considers that approximately half of its suppliers in the Region may require land use consent for dairy farming.<sup>38</sup>
- 47 It is Mr Willis' evidence that it is poor planning practice to establish a new regulatory regime for a previously unregulated activity, in a manner which ensures that a significant number of people will be unable to comply. This also points to a need for the transition period, to undertake further research on land use practices, costs, and farmers affected.

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<sup>35</sup> Statement of evidence of Gerard Willis, dated 30 October 2009, para 32.

<sup>36</sup> Statement of evidence of Gerard Willis, dated 30 October 2009, para 43.

<sup>37</sup> Statement of evidence of Dr Terry Parminter, dated 30 October 2009, para 57.

<sup>38</sup> Statement of evidence of Gerard Willis, dated 30 October 2009, para 31.

### **Lack of incentive**

- 48 Finally, Horizons' proposed regime does not sufficiently incentivise farmers towards better land use management. As Mr Willis explains, regulatory design should seek to encourage dairy farmers towards compliance with transparent performance standards, so as to avoid the costs of consent procedures. In the RMA context, this "safe haven" is permitted activity status.<sup>39</sup> Dr Parminter's evidence is that:<sup>40</sup>

*"If even environmentally progressive farmers have to bear the costs of compliance, it incentivises people to be freeloaders and holdouts on others in their communities."*

### **Fonterra's proposal**

- 49 Fonterra's proposed N-loss regime is described in detail in Mr Willis' evidence. As noted above, the primary relief sought by Fonterra is deletion of the N-loss regime from the Proposed Plan, to allow a thorough section 32 analysis to be undertaken. Fonterra's proposed replacement for Rule 13.1 is suggested only in case the Panel decides against deleting the N-loss regime. The key elements of Fonterra's proposed replacement are as follows:

49.1 The need for Rule 13-1 to apply to any (or all) dairy farms should be reviewed after five years of the Proposed Plan becoming operative. If sufficient improvement within a targeted subzone is apparent, then a plan change should be initiated to remove the application of Rule 13-1 to that subzone. This gives the dairy industry an opportunity to show that it can make the necessary environmental changes through non-regulatory means. If insufficient results are obtained, Fonterra accepts that Horizons may need to have a regulatory regime in place;

49.2 Creation of a permitted activity category for those farms which comply with Fonterra's suggested N-loss values in Table 13.2 of the Proposed Plan. Such farms would demonstrate their ability to comply with the values through the tendering of nutrient budgets prepared by accredited individuals (such budgets are already required of Fonterra's suppliers), along with an assessment of the Land Use Capability (*LUC*) class makeup of the property. Compliance with this permitted activity rule would be more straightforward than completing a FARM Strategy. Fonterra submits that the use of permitted activity status is appropriate in this case because:

- (a) Compliance with a specific condition can be shown and monitored simply and without subjectivity. This is efficient regulation;

<sup>39</sup> Statement of evidence of Gerard Willis, dated 30 October 2009, para 56.2.

<sup>40</sup> Statement of evidence of Dr Terry Parminter, dated 30 October 2009, para 18.

- (b) Case law confirms that a permitted activity rule which requires the provision of information by an applicant to a Council (as is proposed here) is lawful, as no subjective assessment is required nor any discretionary judgment reserved to the Council;<sup>41</sup>
- 49.3 Retention of controlled activity status for those farms that cannot meet the N-loss values of Table 13.1 and all conversions;
- 49.4 Adoption of a “grand parented” approach to starting N-loss limits, so that a suitable transition period is provided;
- 49.5 Trading of N-loss allocations and increased N-loss limits for some LUC classes as a way to address both future and existing land use decisions;
- 49.6 Delaying the commencement date for Rule 13-1 for five years from the date the Proposed Plan becomes operational. This will allow farmers to learn what changes will be required on their farms and how they can comply with the new limits, at minimal cost and disruption to their farming operations. Horizons will be able to raise awareness of the issues and trial aspects of the regulatory approach. Targets could be then re-set based on current, updated knowledge and information; and
- 49.7 An additional policy added to Chapter 13, so that the Council is empowered to have particular regard to farm viability, when considering resource consent applications. Fonterra’s suggested new policy is set out in Attachment 2 to Mr Willis’ evidence. The focus of Fonterra’s suggested policy is quite different from new Policy 13.8 suggested by Council Officers in the “Pink Version” of the Proposed Plan.

### **WATER QUANTITY**

- 50 Fonterra understands and accepts the vital importance of New Zealand’s freshwater resources and the challenges for decision makers in allocating freshwater resources for future needs.
- 51 Fonterra’s written submission raised a number of concerns about the water allocation provisions of the Proposed Plan. Many of these, such as a perceived favouring of allocation for hydro-generation purposes, have been alleviated by the recommendations of the Council Officers and witnesses. Fonterra’s remaining concerns are discussed below and in the evidence of Messrs Newland and Willis.

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<sup>41</sup> *TL & NL Bryant Holdings Limited v Marlborough District Council* ((HC), CRI-2008-406-3, 16 June 2008, Clifford J) at paras [48]-[49].

**Rule 15.1**

- 52 The Proposed Plan's approach to water quantity is to limit permitted surface water takes to a maximum of 30m<sup>3</sup> per day per property. This volume comprises domestic needs, dairy shed needs and stock drinking water needs (Rule 15-1).
- 53 The RMA expressly permits the taking and use of water for domestic needs and animal drinking purposes, but this is not a blanket permission. Section 14(3)(b) provides that a person is not prohibited from taking, using, damming and diverting any water if the water is required to be taken or used for "an individual's reasonable domestic needs" or "the reasonable needs of an individual's animals for drinking water", and as long as the taking or use does not, or is not likely to, have an adverse effect on the environment. The RMA acknowledges the need for land owners to have access to stock drinking water, for the health and welfare of their animals.
- 54 Section 30(4)(f) confirms that a regional council may make a rule to allocate water, as long as the allocation does not affect any of the activities authorised by section 14(3)(b) to (e) RMA (i.e. including water for animal drinking purposes).
- 55 Proposed Rule 15-1 offends section 30(4)(f) by conflating stock drinking water takes and other permitted takes, thus undermining the statutory entitlements awarded by section 14(3)(b). As Horizons itself has recognised, the proposed permitted activity rule cannot override the express entitlement provided by section 14(3)(b) RMA.<sup>42</sup>
- 56 Horizons has not presented evidence that the 30m<sup>3</sup> limit per property has been imposed due to "adverse effects" concerns and accordingly, Fonterra submits that the Proposed Plan cannot control the volume of such takes in the manner proposed.
- 57 Fonterra's second concern with this proposed Rule is its blunt application, which does not take into account individual circumstances. Applying a take limit of 30m<sup>3</sup> across the board fails to take any account of landowner water needs or uses or property size. Such factors will obviously affect how much water is reasonably required.
- 58 Mr Willis has recommended a new rule which excludes section 14(3)(b) takes, as provided for by the Act. Various minor takes are to be provided for as permitted activities and these retain a clear link to property size in their application (e.g. 1m<sup>3</sup> per day for every 5 hectares of land in use). Such an approach allows for individual circumstances to be considered and provided for. The report<sup>43</sup> appended to the supplementary evidence of Dr Roygard for

<sup>42</sup> Introductory Submissions for Horizons Regional Council, para 29.

<sup>43</sup> "Permitted Activity Water Takes – Comparison of Options".

Horizons compares Proposed Rule 15.1 with other allocation options, including the alternative rule outlined in Mr Willis' evidence. That analysis demonstrates that Rule 15.1 could in theory allocate more than the total allocable flow in the catchments studied, whereas Fonterra's suggested rule would better reflect actual current allocation. Mr Newland's supplementary evidence states that discussions between Fonterra and Council staff regarding Rule 15.1 are ongoing.<sup>44</sup>

**"Individual"**

59 As noted above, section 14(3)(b) refers to an "individual's" reasonable domestic needs" or "the reasonable needs of an "individual's" animals for drinking water. The term "individual" is not defined in the Act. I have considered the submissions of Mr Maassen<sup>45</sup> on the meaning of "individual" in section 14, and take a different view as to how the word should be understood within section 14.

60 Section 14 originates from section 21 of the Water and Soil Conservation Act 1967. The predecessor provision provided as follows:

*"..that it shall be lawful for any person to take or use any natural water that is reasonably required for his domestic needs and the needs of animals for which he has responsibility..."*

61 The Court in *Hall v Malvern* held that this provision could include a corporation.<sup>46</sup> The Court also held that the water must be taken by the person actually using the water, rather than a third party intermediary.<sup>47</sup>

62 In *Chatham Islands Seafoods Limited*, the Court accepted that CISL, a company, could have section 14(3)(b) entitlements, although the rights in that case did not extend to the diversion of water by the excavation of a wetland.<sup>48</sup>

63 Fonterra submits that section 14(3)(b) should be read to apply to a body of persons, whether corporate or incorporate. To adopt a different interpretation would mean that individual property owners (or even each individual members of a family living on a farm) could enjoy the protection offered by section 14(3)(b), but properties held by a Trust, or other legal entity, could not. Such a distinction could not be justified on the grounds of environmental effects.

<sup>44</sup> Statement of supplementary evidence of Sean Newland, paras 26-27.

<sup>45</sup> The meaning of 'individual' in section 14 RMA, 25 January 2010.

<sup>46</sup> *Hall v Malvern* (HC, A29/84, 11 December 1985, Cook J) at page 16.

<sup>47</sup> *Hall v Malvern* (HC, A29/84, 11 December 1985, Cook J) at page 16.

<sup>48</sup> *Chatham Islands Seafoods Limited v The Wellington Regional Council* (EnvC, A018/2004, 13 February 2004) at para [59].

## EVIDENCE AND WITNESSES

- 64 Fonterra has lodged evidence by the following witnesses in support of its case:
- 64.1 Mr Sean Newland, Manager of Sustainable Dairying Policy, Fonterra (Description of Fonterra, Fonterra's programmes to improve on-farm performance, Fonterra's comments on the section 32 analysis, the effect of the proposed provisions on suppliers);
  - 64.2 Mr Matthew Newman, Economist, DairyNZ (Economic assessment);
  - 64.3 Dr Terry Parminter, Research Consultant, PACT Consulting Limited (Social science assessment of the proposed provisions);
  - 64.4 Dr John Russell, Environmental Technical Manager, Environment Strategy and Development Group, Fonterra (Fonterra's manufacturing and research activities; impact on Fonterra's industrial water takes and the discharge of wastewater to water and land from the manufacturing sites);
  - 64.5 Dr Michael Scarsbrook, Development Team Leader – Sustainability, DairyNZ (Discussion of the Water Management Framework);
  - 64.6 Mr Duncan Smeaton, who at the time he prepared his evidence was an Independent Agricultural Consultant and Dairy Farmer. Mr Smeaton is now employed by Dairy NZ (Nitrogen loss and techniques for mitigating that loss and the Proposed Plan's approach to nitrogen loss); and
  - 64.7 Mr Gerard Willis, Director, Enfocus Ltd (Planning assessment).
- 65 Mr Newland, and Drs Scarsbrook and Russell, have also prepared short supplementary statements of evidence which address information which became available after their evidence-in-chief was lodged, including supplementary evidence of witnesses for the Council. These supplementary statements were provided to the Hearing Administrator on 17 February 2010 (in accordance with the request in the Chairperson's Minute #11).
- 66 I will ask each witness to read the summary of their evidence, and answer any questions the Panel may have.

## CONCLUSION

- 67 Fonterra welcomes the Council's attempts to address water management issues. However, there are significant matters of detail which have not been correctly addressed by the Council and

which will place a significant and inequitable burden on farmers, with resultant adverse impacts on the Region's economy.

- 68 The transition from no regulation of N-loss to a tightly controlled regime is one which should be managed carefully. It is submitted that Horizons' proposed rules regulating nutrient-loss should be deleted, and the issue considered afresh through a future plan change or variation process.
- 69 Should the Panel disagree with this suggestion, Fonterra's evidence sets out a package of planning provisions which will further the sustainable management purpose of the Act and strike the necessary balance between good environmental outcomes for the Region's water bodies and allowing those resources to be used to support the Region's strong pastoral industry.



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Nicky McIndoe  
Counsel for Fonterra Co-operative Group Limited  
19 February 2010



**APPENDIX A – LETTER REGARDING SECTION 32 ANALYSIS**



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H M Bowle	J J Hassan	B L McArthur	D M M Ross	N R S Wells
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R A Bycroft	S A Hodge	J A McKay	E S Scorgie*	M W Woodbury
M J Carroll	J L Holland	F D McLaughlin	B A Scott	A N C Woods
G T Carter*	G A Hughes*	P A McLeod*	J G M Shirlcliffe	M E Yarnell*
D J Cochrane	B H W Hutchinson*	H C McQueen*	C J Sinnott*	A W Young
M K Corse-Scott*	E R Jack*	A J Nicholls	C J Somerville*	
G W David	P R Jagose	M R Nicholson*	J G Sproot	
B A Davies*	S M Janissen	D J Parker	V H Stace*	

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6 August 2008

John Maassen  
Cooper Rapley  
240 Broadway Avenue  
PO Box 1945  
Palmerston North

**By email and mail**

**PROPOSED ONE PLAN- FURTHER SECTION 32 ANALYSIS**

- 1 As you know, we act for Fonterra Co-operative Group Limited (*Fonterra*).
- 2 We write pursuant to Hearing Committee's Minute of 10 July 2008.<sup>1</sup> As you are aware, the Hearing Committee concluded that further analysis under Section 32 of the Resource Management Act 1991 (*RMA*) is needed. The Hearing Committee also asked the parties to consult among themselves as to the contents of the further analysis, and to consider independent experts to conduct the analysis.
- 3 We consider that the following steps would assist in progressing the further Section 32 analysis:
  - 3.1 Parties to agree upon Independent experts;

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<sup>1</sup> Hearing Committee Minute, dated 10 July 2008.

3.2 Parties to caucus to endeavour to agree upon matters to be addressed in the further Section 32 analysis; and

3.3 Parties to report back to the Hearing Committee.

4 We address these steps as follows.

**Potential Independent Experts**

5 We consider that the further Section 32 analysis will require expertise in planning and economic analysis. In particular, the independent experts will need experience in conducting Section 32 analyses and in carrying out economic cost-benefit analyses. It will also be very useful if the experts have experience in relation to water quality, water quantity, and highly erodible land issues.

6 We consider that the most appropriate way to conduct the further Section 32 analysis is for a planner to perform the analysis with input from an economist. In other words, an economist would carry-out an economic cost-benefit analysis of the competing policy options, and the planner would utilise (but not exclusively rely on) that analysis to assess the options to determine which are the most appropriate. A planner may also need to consult with various technical experts.

**Potential Planning Experts**

7 We understand that the following planning experts may have sufficient qualifications and experience to carry out the planning aspects of the further Section 32 analysis:

7.1 Dr Brent Cowie, Cowie Resource Management Limited (Christchurch);

7.2 Christine Foster, Environmental Management Services (Wellington);

7.3 Sylvia Allan, MWH (Wellington); and

7.4 Mark St Clair, Hill Young Cooper (Wellington).

8 We have spoken with these experts, and they have confirmed their ability and interest in carrying out the planning aspects of the further Section 32 analysis.<sup>2</sup> They are conducting internal checks for potential conflicts of interest.

---

<sup>2</sup> We have contacted the following additional planning experts, and they have advised that they either have conflicts of interest or lack the capacity to carry out the further analysis:

9 We **enclose** brief biographies of each planning expert in **Appendix A**.

***Potential Economic Experts***

10 We likewise understand that the following economic experts may have sufficient qualifications and experience to perform the economic aspects of the further analysis:

10.1 Dr Johannah Branson, NZIER (Wellington);

10.2 Mike Copeland, Brown, Copeland and Company Limited (Wellington);  
and

10.3 Phil Barry, Taylor Duignan Barry Limited (Wellington).

11 We have spoken with these experts, and they have confirmed their ability and interest in carrying out the economic cost-benefit analysis.

12 We **enclose** brief biographies of each economic expert in **Appendix B**.

**Matters To Be Addressed in Further Section 32 Analysis**

13 We consider that it would be useful if the parties could endeavour to agree upon matters to be addressed in the further Section 32 analysis. We consider that the Appendix of the Minute provides a useful starting point.

14 We suggest that the parties' experts participate in a caucusing session in an effort to agree upon the matters to be addressed. The end product of the caucusing session would be an agreed statement of the matters to be addressed in the further Section 32 analysis. If some parties consider that other matters should be addressed that are excluded from the agreed statement, they can make a request to the independent expert(s) that these matters be addressed in the further analysis.

15 The substance of the further Section 32 analysis, including the matters addressed, will be the ultimate responsibility of the independent expert(s). However, to the extent the parties can agree on the matters in advance, we consider that it will minimise conflicts later in the hearings process.

- 
- Sarah Dawson, Boffa Miskell (Christchurch);
  - Jeff Page, Response Planning Consultants Limited (Christchurch);
  - John Kyle and Louise Robertson, Mitchell Partnerships (Dunedin); and
  - Mark Crisp, Environmental Management Services (Hamilton).

**Reporting Back to the Hearing Committee**

- 16 The Hearing Chairperson expressly asked the parties to "agree on draft wording for an appropriate Direction."<sup>3</sup> We consider that a further direction may not be needed, depending on the progress the parties are able to make under the above steps.
- 17 We suggest that it may be appropriate for the parties to issue a joint letter to the Hearings Administrator advising the Hearing Committee of the collaborative efforts of the parties to develop a process to carry out the further Section 32 Analysis.
- 18 We look forward to talking through these steps with you.

Yours faithfully

A handwritten signature in black ink, appearing to read 'S. Janissen' or similar, followed by the text '(Legal Advisor)' in parentheses.

Suzanne Janissen / Barclay Rogers  
Partner / Senior Legal Advisor

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<sup>3</sup> Hearing Committee Minute at [11].

## **APPENDIX A – PLANNING EXPERT BIOGRAPHIES**

**SPECIALIST AREAS**

- *Policy and Strategic Analysis*
- *Plan Preparation and Review*
- *Statutory Approvals under the RMA*
- *Environmental Investigation and Reporting*
- *Registered Hearing Commissioner with Charing endorsement. Plan and consent hearings.*
- *All aspects of water management, particularly surface water and discharges*
- *Freshwater ecology*
- *Emergency Management Planning*
- *Charing and facilitating meetings*

**EDUCATION**

- *University of Canterbury: Doctorate of Philosophy in Zoology, specialising in freshwater biology, 1980.*
- *University of Canterbury: Bachelor of Science (Hons) in Zoology 1976*

**AFFILIATIONS**

- *Member, Resource Management Law Association (NZ)*

**INTRODUCTION**

Dr Brent Cowie, a resource management consultant, has over 25 years experience in environmental management, policy analysis and senior corporate management in local and central government. Brent's specialist areas include: acting as a hearing commissioner and chairing hearing committees, policy analysis and review, strategic analysis, water resource management, investigation and reporting of complex environmental and corporate issues, the development of emergency management plans and procedures, and management of natural hazards Brent operates his own company, Cowie Resource Management Limited.

**EXPERIENCE**

**INTERNATIONAL ENVIRONMENTAL ANALYSIS AND REPORTING**

- Part of an OECD team carrying out an environmental performance review of Australia in 1997. As one of six expert reviewers, drafted the chapter on land, water and coastal management for Australia as a whole, and contributed to preparing the wider review and its recommendations. Took part as the NZ representative in the reporting back in Paris.

**POLICY ANALYSIS**

- Appointed by Canterbury Regional Council as the sole independent Hearing Commissioner for Chapters 4-8 of the Proposed Natural Resources Regional Plan (2006 -2008). Responsible for writing all decisions, and rewriting the plan and s32 reports.
- Ministry for the Environment (2006). Jointly prepared a s32 RMA report on a proposed National Environmental Standard for drinking water supply catchments.
- Ministry for the Environment (2006-07). Prepared an overview of water bodies nationally "at risk".
- Hawke's Bay Regional Council (2005-06). Prepared a consistent hazard reporting format to ensure effects of future events are reported appropriately.
- Hawke's Bay Regional Council (2005). Prepared a draft claim to government for damage caused by willow sawfly to river protection works.



**PROFESSIONAL HISTORY**

- *Self Employed Resource Management Consultant (July 2006 on)*
- *Environmental Management Services Ltd. Consultant (July 2001 to June 2006)*
- *Manawatu Wanganui Regional Council, Palmerston North. Director of Resources (September 1989 to June 2001).*
- *Ministry for the Environment, Wellington. Senior Policy Analyst. (March 1988 to July 1989).*
- *Ministry of Works and Development, Wellington. Scientist and later Group Leader. (June 1986 to March 1988).*
- *North Canterbury Catchment Board, Christchurch. Contract Fisheries and Wildlife Consultant (March 1982 to May 1986).*
- *Cawthron Institute, Nelson. Contract Biologist. (December 1981 to March 1984).*
- Ministry for the Environment (2005). Principal contractor preparing a Monitoring and Reporting Strategy for the Dairying and Clean Streams Accord.
- Foundation of Research, Science and Technology (2005). Undertook a review of future research priorities to control the introduced leaf miner willow sawfly.
- Ministry for the Environment (2005). Prepared a review of water resource management in NZ for the upcoming visit by the OECD.
- Department of Conservation (2005). Undertook a review of the water quality policies of the NZ Coastal Policy Statement.
- Ministry for the Environment (2004-06). Principal consultant to a review of how Government can better mitigate flood risks in NZ. Undertook review of current practise, and of relevant work by government agencies. Ongoing involvement after Cabinet approval in April 2005, including preparation of briefs and reviews of reports.
- Hawke's Bay Regional Council (2004). Undertook an independent review of the most appropriate structures for the response to a major emergency in the region. Canvassed the views of five local authorities; recommended best solutions for improving and integrating their emergency response.
- Ministry of Research Science & Technology (2004). Undertook a comprehensive survey of the views of local government on the present science system, focusing on their input as end users, their influence on decisions on what work gets done, and information transfer. Subsequently contracted to do similar surveys of central government agencies, and those industries that rely heavily on the environment for their success.
- Ministry for the Environment (2002). Undertook a review looking at any need for and means of achieving a national water strategy for NZ.
- Section 32 report for Auckland Regional Council Proposed Air, Land and Water Plan (July to October 2001). Undertook discussions with staff, prepared report, discussed, reviewed and finalised contents.
- Resource Management Act Policy and Plan Development (1989 to 2001). Project management, direction setting, part drafting and peer review of Manawatu-Wanganui Regional Policy Statement, and Regional Plans.

▣ *Canterbury Museum Researcher (December 1980 to March 1982).*

▣ *University of the South Pacific, Suva. Post Doctoral Fellow (May to November 1980).*

**OTHER SKILLS**

▣ *Competent user of IT, particularly MS Office*

▣ *Competent touch typist.*

- ▣ Proposed Civil Defence Emergency Management Legislation (1998 to 2001). Chaired Regional Coordination and Advisory Group comprising representatives of local authorities and emergency services (June 1998 to Dec. 2001) managed political and administrative processes of agreeing to form an EMG; oversight of the strategic component of the Regional CDEMG Plan.
- ▣ Biosecurity Act (1995 to 2001). Political management and oversight of preparation of regional plant and animal pest management strategies.
- ▣ East Coast Project Review (1987). Led an inter-departmental team reviewing the environmental and economic justification for ongoing government support for forestry in the Gisborne District. Led the officials group that guided Government policy for ongoing support for forestry in the District.

**MANAGEMENT & REVIEW**

- ▣ Auckland Regional Council (2003). Carried out a management review of the coastal section of the Council.
- ▣ Manawatu Wanganui Regional Council (2002/03). Rewrote the Council's Marine Oil Spill Plan to the standards requested by the Maritime Safety Authority.
- ▣ Hawke's Bay Regional Council (2003). Reviewed all Council expenditure during 2002/03 financial year to determine what proportion qualified for funding from endowment land, the monies from which must be spent on activities beneficial to the coastal marine area of the region. Repeated this task annually in 2004 – 2008 inclusive.
- ▣ Hawke's Bay Regional Council (2002). Undertook review of benefit of range of activities undertaken by Council to the coastal marine area of the region. Redrafted aspects of the report in 2003 following comment from the Audit Office.
- ▣ Manawatu Wanganui Regional Council: Senior Corporate Management (1989 to 2001). Management of 35-55 staff dealing with all aspects of environmental and resource management, emergency management, setting standards for service delivery in river and drainage engineering (1994 to 2000) and biosecurity (1996 to 2001), and transport policy and public transport administration. Responsible for an annual budget of approximately \$5 million.

### **MEDIATION AND NEGOTIATION**

- PPCS Fairton Consent Review (2005-06). Project management for Canterbury Regional Council a review of the consent conditions regarding nitrogen loadings in a discharge to land of meat works effluent.
- Richmond Oringi Limited resource consent applications (2003). Acted on behalf of the Regional Council to negotiate full agreement on seven resource consent applications for activities at a large meat works with applicant and submitters.
- Tongariro Power Development Consultative Group (1992 to 2000). Foundation member of the consultative group. Actively involved in determining and reviewing research needs, and negotiations on proposed mitigation measures.
- Beds of Rivers and Lakes and Associated Activities Regional Plan Appeals (1999 to 2000). Successfully negotiated consent orders, most involving two or more parties, with eight appellants.
- Regional Policy Statement Appeals (1994). Successfully negotiated consent orders, some involving several parties, with the six appellants.
- Mangahao Power Development Resource Consents (1991 to 1992). Chaired the consultative group that reached complete consensus on conditions and mitigation measures for the Mangahao Scheme in the Tararua Ranges.

### **ENVIRONMENT COURT**

- Manawatu Wanganui Regional Council (2003). Prepared and presented expert evidence to the Environment Court on the effects of the Tongariro Power Development on water quality, and fish and invertebrate communities.
- Manawatu Wanganui Regional Council (2002). Coordinated Council's evidence to a hearing for a proposed large new meatworks near Marton. Peer review of all expert evidence, review of draft conditions. Acted as the representative of the two Consent Authorities for much of hearing.
- Manawatu Wanganui Regional Council (1996). Acted as expert fisheries witness for a successful prosecution for illegal discharge of dairymilk effluent.

- North Canterbury Catchment Board (1985). Acted as an expert witness, and coordinated the Board's case, for the Planning Tribunal hearing appeals against the National Water Conservation Order for Rakaia River.

#### **ADVICE TO HEARING COMMITTEES**

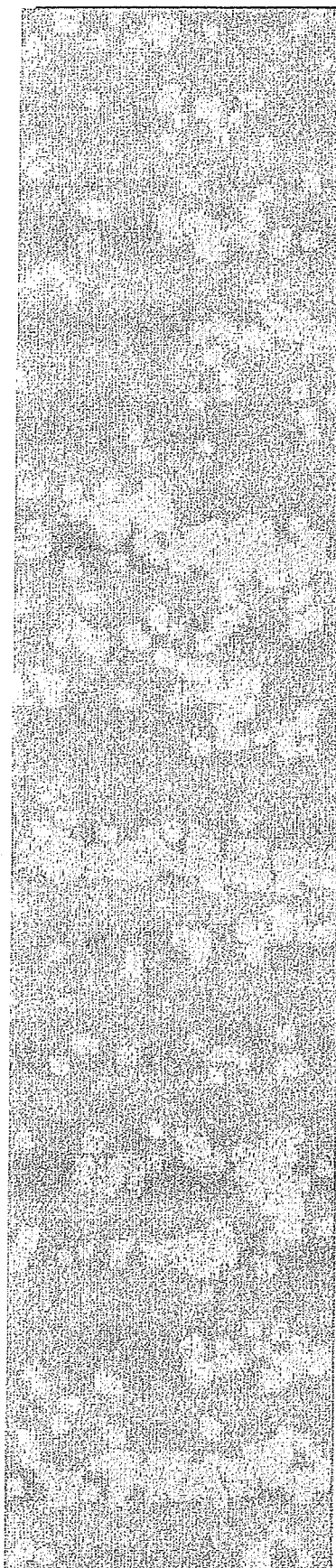
- Manawatu Wanganui Regional Council (1991 to 1998). Principal adviser to Hearing Committees hearing and deciding submissions on the Proposed Regional Policy Statement, and three Proposed Regional Plans.
- Ministry of Works and Development (1987) and Ministry for the Environment (1988-1989). Principal adviser to Hearing Committees deciding applications for National Water Conservation Orders for the Manganuiateao, Grey and Mohaka Rivers. Drafted the decisions and the orders.

#### **NATIONAL WATER CONSERVATION ORDERS**

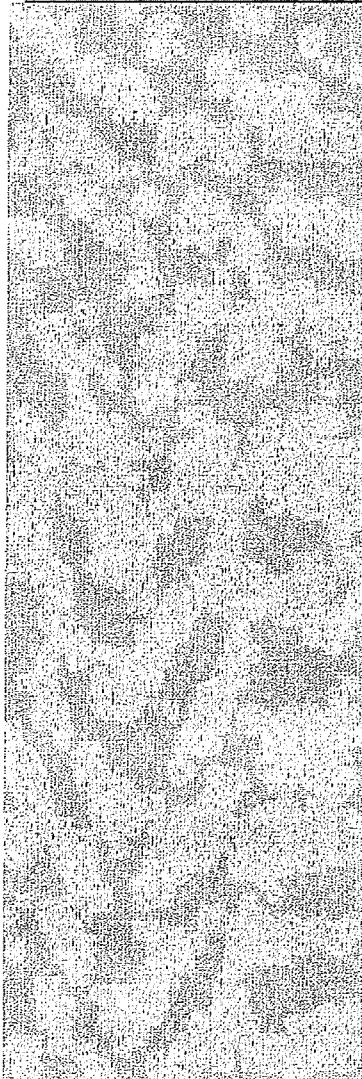
- Appointed by the Minister for the Environment (2006/07) to chair the Special Tribunal hearing a water conservation order application for the Oreti River in Southland. Primarily wrote the decision.

#### **RESOURCE CONSENT HEARINGS AND ADVICE**

- West Coast Regional Council (2006). Hearing commissioner for an application from Westland Dairies to vary a permit to discharge milk processing waste to the Hokitika River.
- West Coast Regional Council (2007). Appointed as a commissioner for a proposed hydro-electric scheme on the Arnold River; now writing the decision
- Hawke's Bay Regional Council (2006-07). Appointed as an independent commissioner to the panel hearing applications to continue to discharge to air from the Ravensdown Fertiliser Works at Awatoto.
- Completed MfE hearing commissioner training course in March 2005; rating of excellent achieved. Updated in May 2006; recertification in June 2008.



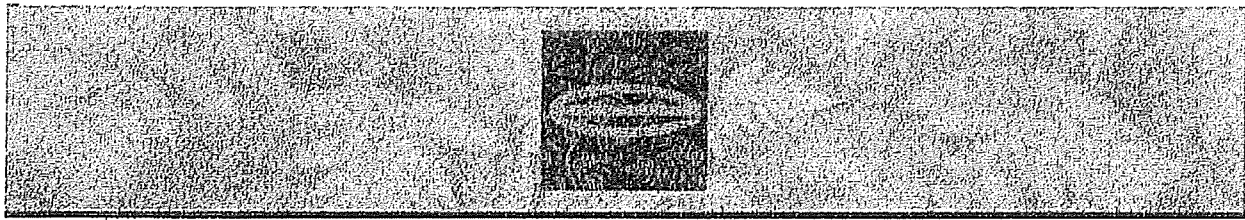
- Canterbury Regional Council (2005). Principal contractor undertaking a review of all discharge and land use consents in the Waimakariri Catchment to determine whether they need to be reviewed under the newly operative catchment plan. More recently the primary contractor undertaking the reviews.
- Auckland Regional Council (2004). Redrafted the Council's consents manual to reflect changes necessitated by RM Amendment Act 2004.
- Canterbury Regional Council (2004-08). Joint Hearing commissioner for many consent applications including two major "farm parks" near Kaikoura, discharges from a proposed dairy factory in mid Canterbury, discharge of a chemical to a lake in Timaru, a new discharge of treated effluent from Clandeboye milk treatment plant to the coastal marine area, a water take in Waipara and large water take from the Waimakariri River, and stormwater discharges at Lincoln, Darfield, Governors Bay, Kaikoura and Woodend (Pegasus Town). Sole commissioner for applications to construct a new composting plant in Christchurch, increase the land area to which milk waste can presently be discharged from the Clandeboye plant; applications to take water from the Waimakariri and Waipara Rivers, stormwater discharges at Rolleston, Tinwald and in Lyttelton Harbour, and a discharge to air from a new anaerobic digester at Kaikoura.
- Tasman District Council (2005). One of a hearing committee considering consent applications for a hydro scheme in Golden Bay. Subsequently in 2007 heard a s357 objection regarding council's refusal to accept consent applications from Maori Trusts to take groundwater.
- Canterbury Regional Council (2003). Joint Hearing Commissioner for: an application to take water from a shallow gallery near the Tekapo River; applications from Waimakariri District Council for new consents and consent variations for air and water discharges at the Rangiora Sewage Treatment Plant; from Selwyn District Council for a new Sewage Treatment Plant to serve the community of Rolleston, and for a Section 128 RMA review of the effects of discharges to land and water from a wool scour in South Canterbury.
- Arbuthnott, Mabey & Managh (2003). Prepared resource consent applications for three farmers seeking irrigation water.



- Manawatu-Wanganui Regional Council (2003 & 2004). Reported on numerous resource consent applications, including taking for community water supplies for Raetihi and Eketahuna, sewage discharges from Raetihi and Mangaweka, power schemes at Raetihi and Mangatepopo, and dredging an urban lagoon in Palmerston North.
- Shell Todd Oil Services (2001 – 2002; 2003 & 2004). Evaluated preferred option for constructing long sections of pipe onshore in Manawatu to bring gas onshore in Taranaki. Found much better location, prepared full AEE's for consent applications to District and Regional Councils.
- Wanganui Sewage resource consent applications (2001). Prepared all technical aspects of the staff report. Got virtually full agreement for draft conditions on permits. Drafted technical aspects of resource consent decision and conditions.

**TIKANGA MAORI**

- Manawatu Wanganui Regional Council (1993 to 2001). Managed the Council's Iwi Liaison Officer and later Iwi Relationships Manager. Involved in detailed negotiations with Iwi representatives on the relationship between Council and Iwi. Took part in many marae visits, very comfortable on marae.



**ENVIRONMENTAL MANAGEMENT SERVICES**

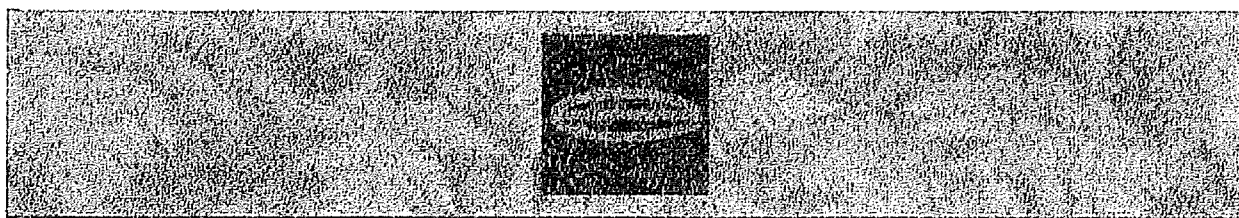
<ul style="list-style-type: none"> <li><a href="#">Home</a></li> <li><a href="#">About EMS</a></li> <li><a href="#">Services</a></li> <li><a href="#">Personnel</a></li> <li><a href="#">Representative Projects</a></li> <li><a href="#">Recent Projects</a></li> <li><a href="#">Contact</a></li> </ul>	<h2 style="margin: 0;">Christine Foster - Introduction</h2> <p style="margin: 10px 0;">Christine Foster has been a senior resource management consultant with Environmental Management Services since 1996. She has over 20 years experience as a practising resource management planner working in local and central government and as a consultant to a range of private sector clients. Her specialist areas include environmental impact assessment, community consultation, procedures for obtaining statutory approvals under the Resource Management Act, expert evidence and project management.</p> <p style="margin: 10px 0;">Christine has been involved, in key senior roles, in preparing resource management plans under the Resource Management Act and in the investigations and planning for a number of major projects. Christine's involvement with local government authorities and development projects gives her a thorough understanding of the procedures and requirements of the Resource Management Act and of the current practice amongst many regional and district authorities.</p>	<ul style="list-style-type: none"> <li><a href="#">Introduction</a></li> <li><a href="#">CV</a></li> <li><a href="#">Specialist Areas</a></li> <li><a href="#">Education</a></li> <li><a href="#">Professional History</a></li> <li><a href="#">Affiliations</a></li> </ul>
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## ENVIRONMENTAL MANAGEMENT SERVICES

<ul style="list-style-type: none"> <li>Home</li> <li>About EMS</li> <li>Services</li> <li>Personnel</li> <li>Representative Projects</li> <li>Recent Projects</li> <li>Contact</li> </ul>	<h3>Christine Foster - CV</h3> <p><b>PROJECT EXPERIENCE</b></p> <ul style="list-style-type: none"> <li>• <b>Coastal Subdivision Riversdale Beach:</b> (2003-2006) Lead consultant coordinating a team of landscape architects, engineers, surveyors, ecologists, archaeologist designing and securing consents for a 123-allotment subdivision on farm land adjacent to Riversdale Beach. The design responds to particular issues in a rural coastal environment and incorporates self-sustaining wastewater and storm water disposal methods. Christine's role continues currently - advising the project team responsible for developing the subdivision on the ground.</li> <li>• <b>Tararua Three - Wind Farm:</b> (2005) Contracted to Tararua District Council and Palmerston North City Council as reporting officer responsible for coordinating a team of acoustic consultant, traffic engineer and landscape adviser evaluating and making recommendations on a proposal to substantially increase the size of a wind turbine "farm" on the foothills of the Tararua Ranges and the opposing submissions concerned about noise and visual effects.</li> <li>• <b>Pauatahanui Inlet Pathway:</b> (2005) Successfully secured consents for the construction of a short section of Pathway around the Inlet to be constructed as a joint project between the Porirua City Council and Rotary Club.</li> <li>• <b>Marlborough Sounds Appeal - Ferry Wake:</b> (2005) Sole planning adviser and expert witness on behalf of shipping operators that run ferries through Tory Channel in the Marlborough Sounds in an appeal against the Marlborough District Council's proposed changes to the Resource Management Plan which would constrict the operators' activities.</li> <li>• <b>Western Corridor Transportation Study (GWRC and Transit):</b> (2004-2005) Member of the team of consultants investigating solutions to the challenge of future transport through the western corridor of Wellington Region. One of a pair of team members responsible for developing and implementing the community consultation process used to inform the technical team's recommendations.</li> <li>• <b>Palmerston North Urban Growth Strategy:</b> (2004-2005) Peer reviewer to the Council developing District Plan provisions to implement the Urban Growth Strategy and infrastructure development requirements associated with that Strategy.</li> <li>• <b>Porirua City Council Reserves Contribution Appeal Whitby:</b> (2004 and on-going) Adviser to Porirua City Council and expert witness in successfully defending an appeal against the imposition of reserve contribution for a 20-lot subdivision of former golf course land.</li> </ul>	<ul style="list-style-type: none"> <li>Introduction</li> <li>CV</li> <li>Specialist Areas</li> <li>Education</li> <li>Professional History</li> <li>Affiliations</li> </ul>
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- **Acting Planning Manager – Wellington City Council:** (2003-2004) Requested to take an interim acting manager position created by re-structuring within the Council's planning department (for which Christine was a member of a three-person Review Team which evaluated the existing structure and recommended substantial change to that structure) and pending appointment of the new manager – responsible for resource consents, compliance and district plan teams and for establishing financial and management systems to support the new team structure.
- **St Bernard's College Re-Development:** (2001-2002) Senior Planner, working with a project team including an architect and acoustic consultant to prepare the application and assessment of effects for a major upgrading of this established secondary school within a residential zone. A key component of the project was consultation with the more than 70 neighbours resulting in only 2 submissions on the application lodged with the Council.
- **State Highway 1 Proposed Upgrading Pukerua Bay To Paremata:** (1997-2001) Key advisor to Council in respect of Transit's proposed highway upgrading. Convened a team of specialist consultant advisors who evaluated the proposal and assisted to develop the Council's response and who subsequently assisted with the preparation and defence of the Council's appeal achieving more stringent environmental protections for the community near the highway. Project manager of the statutory notification, submission and hearing process including the preparation of officer's reports on the proposal and evidence for the Environment Court.
- **Bypass of Paraparaumu and Waikanae:** (1994-1995) Project manager and principal consultant responsible for a team of design engineers and environmental consultants investigating the environmental and engineering implications of a proposed bypass road and lead consultant responsible for consultation with affected landowners.
- **Paraparaumu Town Centre Planning Study:** (1993-1994) Project manager and principal design consultant managing a team of architects, urban designers, engineers, and planners formulating alternative design options for a town centre including the development of a community consultation strategy and presenting the options at various community consultation forums seeking feedback to guide the Council's choice of preferred strategy.
- **State Highway 60 Rooding Options Motueka:** (1995) Principal planner responsible for preparing an assessment of the environmental and social effects of alternative rooding options and for preparing and implementing a programme of community consultation to discuss the pros and cons of the various options.
- **A Study of Rooding Options For S.H. 1 Traffic Through Kapiti Coast District Council:** (1992-1993) Principal planner engaged as a member of a team of design engineers and environmental consultants evaluating alternative rooding corridors for main north/south traffic through Kapiti Coast District.
- **Catholic Schools Board Inc. Schools Development:** (1999-2000) Principal consultant obtaining approvals for extensions to primary and secondary schools in Porirua, Hutt City and New Plymouth and undertaking consultation with residents surrounding the school sites to achieve non-notified consents.
- **Marine Farms Marlborough Sounds:** (1999) Resource

management advisor with a team of specialists assisting to identify potential marine farm sites and investigate the resource management implications and procedural requirements for those sites for a marine farming and mussel processing business.

#### RESOURCE MANAGEMENT PLANS

- **Marlborough Sounds Resource Management Plan – Issues And Options And Draft Provisions:** (1995-1996) Project manager of a team of planners, engineers, landscape architects, scientists, lawyers who prepared draft Plan provisions relating to:
  - Residential Zone provisions
  - Network utilities
  - Urban settlements planning controls
  - Hazardous substances management
  - Discharges to land and waste management
  - Coastal water
  - Code of practice for urban subdivision and development
- **Rangitikei District Plan:** (1994-1996) Project Manager and principal planner responsible for preparing the Council's first District Plan under the RMA including an extensive programme of community consultation.
- **Horowhenua District Plan:** (1995-1996) Principal planner responsible for preparing draft Plan provisions based on community consultation undertaken by Council.
- **Submissions To Proposed Plans:** (Various) Key advisor to a number of government departments and businesses analysing the implications of proposed resource management plans and preparing and presenting submissions to local authorities.
- **Marlborough Regional Land Transport Strategy:** (1993) Principal planner working with a team of planners and engineers responsible for determining the issues and likely future demand for transport infrastructure in the District.

#### RESOURCE MANAGEMENT STUDIES

- **River Ecosystem Management Framework Applied To Water Allocation Planning:** (2001) One of a team of consultant planners and scientists currently examining the applicability of the River Ecosystem Management Framework to water allocation planning in New Zealand and developing a case study to test the issues arising for the methodology.
- **Managing Rural Amenity Conflicts:** (2000) One of a team of consultants who developed, for the Ministry for the Environment, a best practice guideline setting out the issues arising in conflicts over amenity in the rural environment and setting out a range of alternative methods that can be used to manage such conflicts. The project also involved the facilitation of a series of workshops around New Zealand to explore the issues with practitioners, industry representatives and councillors.
- **Planning History Of Porirua City Centre:** (1999/2000) Principal researcher of a study tracing the historical events that have shaped the current form of the City Centre and analysing the issues that need to be addressed in planning for the Centre's future.
- **Resource Consents Research (Porirua City Council):** (1999) Project Manager and principal researcher for a study analysing the

effects on the environment of the granting of resource consents and identifying patterns emerging in the processing of resource consents.

#### RESOURCE MANAGEMENT HEARINGS

Christine has attained certification (2005) from the Making Good Decisions training course and is an accredited Independent Commissioner. The following is a sample of the hearings for which Christine has been an Independent Commissioner:

- **Palmerston North City Council Plan Change 22: (2006)**  
Sole Independent Commissioner determining a proposed Plan Change and submissions relating to the re-zoning of a parcel of central city reserve land.
- **Benton Groundwater Abstraction (Greater Wellington Regional Council 2006):**  
Member of a two-commissioner panel considering an application for groundwater abstraction in the southern Wairarapa involving one of the largest abstraction volumes of water sought in recent history.
- **Scadden's Bend Stopbank (Greater Wellington Regional Council 2005):** Sole Independent Commissioner considering an application involving submissions on a proposal to shift a stopbank within a Wairarapa floodplain.
- **Whitby Retirement Village (Porirua City Council 2005):**  
Chair of a panel including elected Councillors for an application for a substantial extension to an existing retirement complex involving apartment buildings and medium-to-high density residential living at the traditional centre of the suburb of Whitby - attracting submissions of concern about adverse effects on surrounding residential amenity.
- **Residential Dwelling - Moana Road (Porirua City Council 2004):** Sole Independent Commissioner for an application for a non-complying residential dwelling on a challenging small and steep site on a cliff face at Pimmerton.
- **Lighthouse Cinema - Pauatahanui (Porirua City Council 2004):** Sole Independent Commissioner for an application involving the conversion of an existing community hall in the centre of a rural village into a boutique cinema - attracting concerns about noise and traffic movements.
- **Highbury Community Centre (Palmerston North City Council 2004):** Sole Independent Commissioner for a proposal to establish a community centre on Council reserve - providing a facility with multiple recreational and cultural use and attracting submissions of concern about noise, visual and traffic effects on surrounding residential properties.
- **Arena Manawatu Complex (Palmerston North City Council 2004):** Sole Independent Commissioner considering several applications to alter the facilities and structure at the stadium complex with implications for visual appearance and traffic movement and effects for the surrounding residential environment.
- **Soo Subdivision - Foxton (Horowhenua District Council 2004):** Sole Independent Commissioner for an application to subdivide land on the outskirts of Foxton Beach township to create large-lot residential sections - and involving issues of residential

amenity and stormwater flows.

- **Wellington Harbour Dredging (Wellington Regional Council 2003):** Chair of three Commissioners hearing applications by Wellington's Port Company (CentrePort) to dredge the harbour's navigation channel and wharf vicinities and dispose of material at sea
- **Palmerston North City Council Information Centre – The Square (2003):** Sole Commissioner hearing an application for consent to modify the Council's heritage Ladies Rest facility to create a modern information centre at the heart of the Square involving a large number of submissions and diverse opinions.
- **Hutt River Floodplain Mitigation Works (Wellington Regional Council 2002):** One of two Commissioners hearing an application by the Council's flood protection group to undertake substantial works designed to enhance the flood protection system in the lower Hutt Valley.
- **Otaki Supplementary Water Supply Pipeline (Wellington Regional Council 2001):** Chaired panel of three Commissioners hearing the application by Kapiti Coast District Council to abstract water from the Otaki River for supplementary supply to the Waikanae/Paraparaumu/Raumati communities. The hearing canvassed several important issues including ecological, Maori spiritual, economic matters raised by the 150 submissions. Part of the hearing was successfully hosted at the local Marae.
- **Wellington City Council Variation 22 - Wellington Waterfront Zoning (2001):** One of three Commissioners hearing 140 submissions on the proposed zoning of Wellington's waterfront. The waterfront has been the subject of impassioned debate about the extent of development vs public open space. The Variation which proposes a regime of controls to manage future development again drew strong argument from different perspectives.
- **Medical Waste Incinerator Wellington Greater Wellington Regional Council (2000):** One of two Commissioners for Wellington Regional Council conducting a review of the consent to operate a medical waste incineration facility involving discharges to air and numerous opposing submissions.
- **Gepp Development - Nelson City Council (2000):** Sole Commissioner hearing an application for resource consent for a residential complex located partly within the coastal environment at Monaco Nelson involving several submissions of opposition.
- **Leisure Park - Porirua City Council (2000):** Sole Commissioner hearing an application for a leisure park on the Aotea Block in eastern Porirua involving several submissions of opposition particularly relating to noise effects.
- **Wellington Regional Council River Works: (1999)** One of two Commissioners for Wellington Regional Council hearing the Council's applications to undertake extensive river management works on three significant rivers in the region (the Otaki, Waikanae and Hutt Rivers) and various submissions of opposition including concerns about kaitiakitanga and impacts on the spiritual values of tangata whenua and property impacts.

# Sylvia Allan

National Planning Team Leader

Sylvia Allan is MWH's National Planning Team Leader with over 35 years experience in all aspects of urban and rural planning and resource management. She advises major clients in the energy, utilities, transport and development fields, as well as assisting public agencies, community groups and individuals with planning advice.

Sylvia has particular knowledge and expertise in statutory planning, including the requirements of the Resource Management Act and associated legislation. She is skilled in project management of major environmental investigations, consultation processes, and the preparation of application documentation. The management of hearing and appeal processes is also a particular skill including preparation and presentation of professional evidence.

A wide practical experience in energy development including hydro, thermal, wind and bioenergy results from particular interest in energy generation and efficiency. Sylvia has a similar breadth of experience in transport, water resources, education, heritage, coastal planning and urban and rural environments. Sylvia is committed to providing competent practical and technical advice, appropriate procedures of client and community consultation, and sound environmental practice.



## specialisations

- Statutory planning and resource management
- Preparation and review of policy and plans
- Resource consent applications
- Environmental Impact Studies/Assessment of Environmental Effects
- Community consultation and facilitation
- Social Impact Assessment
- Energy Planning
- Community and educational research and survey techniques
- Resource management and planning education and training
- Rural planning issues/Coastal and maritime planning
- Water resources planning and management
- Planning for heritage resources
- Urban environment issues
- Education planning/Transport planning
- Preparation and presentation of professional evidence

## career summary

- Principal Planner, Environmental Planning and Assessment, later MWH, 1980 to Present
- Tutor, NZ Technical Correspondence Institute, 1977 to 1980
- Senior Landuse Planner, Milton Keynes New Town, 1975 to 1977
- Planner, Fife Country Council (Scotland), 1974 to 1975
- Demographer, Greater London Council, 1974 to 1974
- Geographer/Planner, Auckland City Council, 1970 to 1973

## qualifications

- Town and Country Planning, Diploma
- (Hons) Science, BS/BSc
- New Zealand Planning Institute, Fellow

# Sylvia Allan

National Planning Team Leader

## A selection of project successes

### **North and South Island 400kV Backbone Investigations, Transpower NZ Ltd, 2004 to Present**

Environmental Team Leader for route identification investigations, consultation and preparation of notices of requirement for the proposed 200km overhead and 8km underground, and two new substations that comprise the North Island project. Environmental Team Leader for investigation of possible routes for a 400kV line in the South Island.

### **Niwa - Climate Change Guidance Notes, Niwa Climate, 2003, 2008**

Worked with NIWA (National Institute of Water and Atmospheric Research) in preparing Guidance Notes for Local Government in responding to climate change, including advice on risk assessment, liability, statutory responsibilities, case law, planning processes, and decision making. Reviewed and reissued, 2008.

### **Mfe - Industry Instruments in RMA, Ministry For The Environment, 2003**

Reviewed the use of the industry sponsored instruments in managing environmental effects of industries internationally. Considered and advised the Ministry for the Environment on the prospects of introducing such instruments to New Zealand resource management through national environmental standards.

### **Tasman DC - Coastal Area Strategic Development Review, Tasman District Council, 2000 - 2004**

Reviewing growth pressures in the coastal Tasman area between Richmond and Motueka, and developing options for the future of this area. Ongoing projects have investigated the practicality and means of providing for significant residential growth within a rural context. Plan provisions and a design guide have been developed and substantial public consultation has led to ongoing refinement of these concepts.

### **Soil and Water Management, Various Clients, 1985 to Present**

Researched and Prepared publications "Water and Soil Issues: A Guide for Town and Country Planning" (National Water and Soil Conservation Authority, 1987), and "Water and Soil Resource Management Planning Guidelines", Ministry for the Environment 1988. Review of process for the Piako Waitoa floodplain management plan for Hauraki Catchment Board. Review of approach and process for the Hutt Valley Flood Plain Management Plan; public consultation processes, assistance with risk assessment evaluation, and advice on ongoing process for plan preparation for Wellington Regional Council.

Preparation of assessment of environmental effects and obtaining of resource consents for Ewen floodway and Ewen Bridge, Lower Hutt, and Wanganui River Bank improvements, Wanganui City. Riparian management policies and water consents for projects involving water requirements (takes and discharges), such as Taranaki Combined Cycle Power Station, Gisborne Bioenergy Project, and Pan Pac site.

### **Policy and Plan Assistance to Local Government, Local Government, 1980 to Present**

Ongoing mentoring to Nelson City Planning Department in development of Nelson Resource Management Plan. Assistance in development of policy and plan provisions, particularly in relation to port, airport, financial contributions and noise. Assistance to Tasman District Council in rural and rural residential policy and noise. Preparation of air quality provisions for Tasman and Nelson Resource Management Plans. Assistance to Buller District Council on rural subdivision. Assistance in writing policy and plan sections, preparing reports for Council hearings, and references to the Environment Court.

### **Project Management and Resource Consents, Various Clients, 1980 to Present**

Management of multidisciplinary teams to scope major developments; undertake environmental investigations; brief and manage sub consultants; determine plan change, variation, and/or resource consent requirements; develop and undertake consultation and communication strategies; ensure appropriate techniques and approaches, to all aspects of environmental management; prepare full application or plan change documentation; and manage obtaining consents through to appeal processes. Examples include the Stratford Combined Cycle Power Station, Makara Wind Farm, Port of Napier Dredge Disposal, Pan Pac Planer Mill expansion, Gisborne Landfill, Museum of New Zealand (Te Papa) and Chaffers Bay Inner City Housing (300 units), Wellington Marine Education Centre.

### **Central Government Policy Development, Central Government, 1980 to Present**

Research and Report on promotion of energy efficiency through the Resource Management Act; research and preparation of guidelines on new renewable energy sources, and wind energy generation projects, for Energy Efficiency and Conservation Association. Research and report on local government's responses to possible future climate change. Significant policy input into development of Resource Management Act. Investigation into impediments to regional growth for LGNZ and a consortium of central government departments.

## CURRICULUM VITAE—MARK ST.CLAIR

### **Mark St.Clair: NZCD, BREP (Hons) MNZPI**

Mark is a Principal and Co-Director of Hill Young Cooper Ltd, a strategic resource management and environmental policy and planning consultancy formed in New Zealand in 1995. He joined the company in 2000, becoming a director in 2001. The company specialises in environmental and resource management assessment and policy advice, with a strong public sector, urban growth, and infrastructure development emphasis.

Prior to this Mark was a Senior Planning Consultant at GHD (formerly Manukau Consultants Ltd), a planning and engineering consultancy operating throughout New Zealand, Australia, and numerous other countries (1997–2000). Before joining Manukau Consultants Ltd, Mark was in the Environmental Policy team at Manukau City Council in both policy development and monitoring roles. Mark was also an assistant policy analyst at the Ministry for the Environment (1992–1993) working in the Resource Management Act area. From 1980–1985 he held the position of Planning Assistant at the then Lower Hutt City Council.

Mark has 18 years experience in public policy development, environmental and resource management assessment, environmental management systems, monitoring and auditing, and project management in New Zealand.

As an advisor, Mark has been involved in the review of local government in their role as environmental regulators and of the implementation of resource management legislation. This role has included the analysis of regulatory practice, identifying best practice and system improvements for local and central government.

Mark is a specialist in environmental management systems and compliance strategies. This includes the development of environmental policy, environmental systems implementation, monitoring and auditing and resource consent processes.

Mark is a Member of the New Zealand Planning Institute, and the Resource Management Law Association of New Zealand, and is a certificated hearing commissioner.

### **NZ Domestic Experience**

Mark's domestic NZ experience / appointments include(s):

- Project Director—The Cost of Obtaining a Resource Consent, Ministry for the Environment (2008);
- Project Director—The Impact of Land Use Regulations on Housing Costs, Ministry for the Environment (2008);
- Member—Review Group on National Policy Statement for Renewable Generation, Ministry for the Environment (2008);
- Advisor—Environmental Risk Assessment, Environment Management Systems and Resource Consent applications, various Fletcher Building Companies (2000–2008);

- Peer Review—LECG Report on "Cost of Obtaining a Resource Consent", Ministry for the Environment (2007);
- Facilitator and author—Industry-initiated Guidance Note for Quality Planning website titled "Planning for the Wine Industry", New Zealand Winegrowers (2006–2007);
- Review of Consentability and Planning Issues on Western Corridor Transportation Study, Porirua City Council (2005–2006);
- Regulatory Advisor—Lake Taupo Water Quality Protection Programme, Ministry for the Environment (2005);
- Facilitator and contributing author—Improving Processes For Making Plans & Policy Statements Under The Resource Management Act 1991, Ministry for the Environment (2004);
- Author—Review of MfE Targeted Assistance Programme for 2003–2004, Ministry for the Environment (2004);
- Assessment of Environmental Effects and resource consent preparation—Regional Discharges Project, Manukau Water (2000–2004);
- Expert planning evidence, ARC hearing Proposed Air Land Water Plan and subsequent mediation, Fletcher Building (2004).

**Miscellaneous (i.e. pre-2000):**

- Review of Regulatory Services for the processing of land use and subdivision consents under the RMA, Tauranga District Council;
- Subdivision Best Practice Guide in conjunction with K Tremaine of KPMG, Local Government Forum;
- Impact of the RMA on the construction, agriculture, forestry, and food sectors in conjunction with K Tremaine of KPMG, Ministry of Commerce;
- 50 year growth projection for Manukau City for Asset Management Planning, Manukau Water;
- Advisor to Requiring Authority Manger of Whitford Quarry and Landfill, Manukau City Council;
- Preparation of resource consent applications for Gas Gateway and Reticulated Gas Pipeline throughout Manukau City, Nova Gas.



### SHORT CURRICULUM VITAE

1. NAME : ST.CLAIR Mark Leslie
2. DATE OF BIRTH : 14 April 1962
3. NATIONALITY : NZ
4. EDUCATION : Bachelor of Resource and Environmental Planning (Hons—1<sup>st</sup> Class) (Massey University 1993)  
New Zealand Certificate in Town and Country Planning Draughting (Wellington Polytechnic 1984)  
Member NZ Planning Institute (1995)  
Certified Hearing Commissioner (2006)
5. OTHER TRAINING : Environmental Management Systems
6. LANGUAGES : English
7. AREAS OF SPECIALIST EXPERTISE : Environmental Policy and Planning  
Environmental Management Systems  
Regulatory Best Practice  
Environmental Policy Development
8. MEMBERSHIP OF PROFESSIONAL SOCIETIES : Member, New Zealand Planning Institute  
Member, Resource Management Law Association of NZ
9. COUNTRIES OF WORK EXPERIENCE : New Zealand, Australia
10. COUNTRIES IN WHICH RESIDENT : New Zealand

**APPENDIX B – ECONOMIC EXPERT BIOGRAPHIES**

## . Johannah Branson

SeniorEconomist



### Qualifications

BSc(Hons) PhD

### Contact details

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E-mail: [Johannah](mailto:Johannah)

### Key specialist areas

- energy
- natural resources
- construction
- economic growth and development
- funding and cost recovery
- business management

Johannah provides qualitative and quantitative research and analytical expertise, with experience in theoretical and applied economics and operational and strategic policy analysis and process.

Prior to joining NZIER in August 2004, Johannah was Senior Policy Analyst at the Ministry of Agriculture and Forestry. Her work there was dominated by biosecurity, including in economic impact assessment, cost-benefit analysis and designing prioritisation and integrated risk management frameworks.

Between completing a PhD and postdoctoral research in agricultural economics, Johannah worked in the Inland Revenue Department's Taxation Economics Group.

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## CURRICULUM VITAE OF MICHAEL CAMPBELL COPELAND

<b>DATE OF BIRTH</b>	3 October 1950
<b>NATIONALITY</b>	New Zealand
<b>EDUCATIONAL</b>	Bachelor of Science (Mathematics) 1971
<b>QUALIFICATIONS</b>	Master of Commerce (Economics) 1972
<b>PRESENT POSITIONS</b>	
(Since 1982)	Economic Consultant, Brown, Copeland & Co Ltd
(Since 2001)	Lay Member of the High Court under the Commerce Act 1986
(Since 2003)	Director, Wellington Rugby Union
<b>PREVIOUS EXPERIENCE</b>	
1978-82	NZ Institute of Economic Research  Contracts Manager/Senior Economist
1975-78	Confederation of British Industry  Industrial Economist
1972-75	NZ Institute of Economic Research  Research Economist
1990-94	Member, Commerce Commission
2001-06	West Coast Regional Council Trustee, West Coast Development Trust
<b>GEOGRAPHICAL EXPERIENCE</b>	
	New Zealand

- The proposed Clifford Bay ferry terminal;
- The proposed pipeline and related facilities to utilise water from the Waikato River for metropolitan Auckland;
- A container terminal expansion by the Ports of Auckland;
- The designation of the Transmission Gully motorway route;
- The proposed Variation No. 8 to the Wellington City District Plan covering height and other controls on development of the airspace above the Wellington railway yards;
- A proposed Town Centre Zone within the Kapiti Coast District;
- Wellington City Council's heritage preservation policy;
- Solid Energy's proposed West Coast Coal Terminal at Gravity;
- The proposed Waimakariri Employment Park;
- The designation of land for a proposed motorway extension in the Hawke's Bay;
- The Hastings District Council's Ocean Outfall;
- A proposed new shopping and entertainment centre in Upper Hutt;
- New regional correctional facilities in Northland, South Auckland, Waikato and Otago;
- Proposed controls on wake generation by vessels travelling within the waterways of the Marlborough Sounds;
- Southern Capital's proposed new township at Pegasus Bay, north of Christchurch;
- Renewal of water resource consents for the Tongariro Power Development Scheme;
- The imposition of land use restrictions within noise contours surrounding Christchurch International Airport;
- The expansion of the Whangaripo Quarry in Rodney District;
- A proposed five star hotel development for Wanaka;

About our  
team



**Phil Barry**

Phil Barry offers wide-ranging and in-depth expertise in economics, corporate finance, public policy analysis and regulatory reform. He has had over twenty years experience providing economic and financial advice to leading corporates in the private and public sector.

Phil's experience ranges across a number of sectors, including agribusiness, energy, finance, gaming, health, State Owned Enterprises, telecommunications, transport and water. His clients in the last five years have included Fonterra, Foodstuffs, the Law Commission, the Major Electricity Users Group, the Meat Industry Association, Meridian Energy Ltd, Mighty River Power Ltd, the New Zealand (NZ) Business Roundtable, the NZ Food Safety Authority, the NZ Law Society, Ngai Tahu Holdings Corporation, Tainui Group Holdings Ltd, Telecom NZ and Tranz Rail.

Services Phil has provided these clients include:

- expert witness services on economic and financial matters;
- investment appraisal and advice on portfolio strategy;
- assessment of the impacts of public policies;
- advice on pricing and transfer pricing strategy; and
- financial analysis and valuation appraisals.

As a former Director at the Treasury and Advisor at the Department of the Prime Minister and Cabinet, Phil provided strategic advice and led the implementation of structural change and regulatory reform in significant parts of the New Zealand economy. Major projects Phil had a key role in include the restructuring of the dairy sector that led to the formation of Fonterra; the privatisations of Auckland and Wellington International Airports; international investment policy negotiations; the financial restructuring and commercialisation of numerous state trading enterprises; and the restructuring of the energy and health sectors. During the mid 1990s, Phil served as Counsellor Economic in New Zealand's Permanent Delegation to the OECD in Paris.

Phil has an MBA in Finance and Accounting from the University of Rochester, New York and a BA Hons (1st class) in Economics from Victoria University, Wellington. He is a Fulbright Fellow and has published several papers on economic strategy, savings behaviour and financial policies.

**Pat Duignan**



Pat Duignan has comprehensive experience of New Zealand and international capital markets and of capitalisation and corporate structuring as a Treasurer, Corporate Finance Manager, Investment Banker, and Economic Policy Adviser. His expertise covers a wide range of capital structuring decisions and implementation of transactions as both a Treasurer and an Investment Banker.

From 1995 until last year, Pat managed the treasury, corporate finance and taxation and (for most of the period) investor relations areas for Telecom Corporation of