

BEFORE THE ENVIRONMENT COURT

ENV – 2018 – CHCH – 000039

IN THE MATTER of the Resource Management Act 1991 (“**the Act**”)

AND

IN THE MATTER of appeals under Clause 14 of the First Schedule of the Act

BETWEEN **ALLIANCE GROUP LTD**
Appellant

AND **SOUTHLAND REGIONAL COUNCIL**
Respondent

**STATEMENT OF EVIDENCE BY LYNETTE PEARL WHARFE
ON BEHALF OF HORTICULTURE NEW ZEALAND
1 MARCH 2019**

MAY IT PLEASE THE COURT

1. INTRODUCTION

- 1.1 My name is Lynette Pearl Wharfe. I am a planning consultant with The AgriBusiness Group. I have a BA in Social Sciences and post graduate papers in Environmental Studies, including Environmental Law, Resource Economics and Resource Management.
- 1.2 I am an accredited commissioner under the Making Good Decisions programme with Ministry for the Environment.
- 1.3 I have been a consultant with The AgriBusiness Group since 2002. The Agribusiness Group was established in 2001 to help build business capability in the primary sector.
- 1.4 I have spent over 18 years as a consultant, primarily to the agricultural industry and rural sector, specialising in resource management, environmental issues, and environmental education and facilitation, including 18 years of providing advice to Horticulture New Zealand ("**HortNZ**") and its precursor organisations NZ Vegetable and Potato Growers Federation and NZ Fruitgrowers Federation.
- 1.5 A summary of my experience is included as Attachment A.
- 1.6 I have been involved as a consultant to HortNZ on the Proposed Southland Water and Land Plan ("**pSWLP**") contributing to the submission and further submissions.
- 1.7 I have read the Environment Court's Code of Conduct for Expert Witnesses, and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2. SCOPE OF EVIDENCE

- 2.1 This evidence provides a planning assessment of those provisions on which HortNZ lodged s274 notices on appeals to the pSWLP which are being considered in Topic A and which HortNZ supported or supported in part.
- 2.2 This evidence specifically addresses appeals by Alliance Group Ltd ("**Alliance**") on Objective 18, Policy 4 and Policy 10 on which HortNZ lodged s274 notices in support in part.

- 2.3 Documents that I have relied on in preparing this evidence include:
- (a) The pSWLP Recommendations Report 29 January 2018
 - (b) Evaluation Report: Proposed Southland Water and Land Plan, updated for the Environment Court 19 October 2018
 - (c) Southland Regional Policy Statement 2017
 - (d) Section 42A Hearing Report April 2017
 - (e) National Policy Statement for Freshwater Management 2014, updated August 2017
 - (f) Appeal by Alliance Group Ltd
 - (g) Evidence-in-chief prepared for Environment Southland and Alliance Group Ltd.

3. OBJECTIVE 18

- 3.1 Objective 18 establishes a policy framework for use of 'good management practices' (GMP) in the pSWLP.
- 3.2 HortNZ made a submission supporting Objective 18 as notified and further submissions opposing-in-part a submission by Ravensdown and supporting-in-part a submission by Fonterra which sought relief similar to that sought by Alliance Group Ltd.
- 3.3 Objective 18 was amended by decisions as follows:
- All activities operate in accordance with ~~at~~ 'good (environmental)-management practice' or better to optimise efficient resource use, safeguard the life-supporting capacity of and protect the region's land and soils, and maintain or improve the water from quality and quantity of the region's water resources degradation.*
- 3.4 The pSWLP includes a definition for 'good management practice'
- Good management practices include, but are not limited to, the practices set out in the various Good Management Practices factsheets available on the Southland Regional Council webpage.*
- 3.5 Objective 18 has been appealed by Alliance, Nga Runanga, and Fish and Game Council but no party appears to have appealed the definition of good management practice.
- 3.6 Alliance has appealed the decision on Objective 18 as it is concerned that as the objective is currently worded all activities need to operate in accordance with good management practices,

which would include industrial and trade processes. Good management practices are defined in the pSWLP as practices set out in GMP fact sheets on the council's website, which are currently targeted at GMPs for farming practices.

3.7 Alliance considers that 'GMP' is a vague and uncertain test for assessing the effects of industrial and trade process discharges and sought that Objective 18 be limited to 'farming' activities and that industrial and trade processes meet best practicable option, as defined in the RMA.

3.8 Alliance seeks that Objective 18 be amended as follows:

All farming activities operate in accordance with 'good management practice' or better and discharges from industrial and trade processes shall operate in accordance with best practicable option to optimise efficient resource use, safeguard the life-supporting capacity of the regional land and soils, and maintain or improve the quality and quantity of the region's water resources.

3.9 HortNZ supported in part the appeal point as the use of good management practices are supported and Objective 18 provides an appropriate policy framework for the use of GMPs in the implementation of the Plan. HortNZ recognises that it is appropriate that industrial and trade activities operate in accordance with best practicable option as defined in the RMA, so the distinction sought by the appellant would achieve this outcome.

3.10 Mr Kyle presents planning evidence for Alliance and generally supports the approach in the appeal although he recommends alternative relief by amending the changes sought to Objective 18 and also proposes a change to the definition of good management practices:

Are practices to manage the adverse effects of farm systems on water quality from contaminants transported via drainage and overland flow. They ~~Good management practices~~ include, but are not limited to, the practices set out in the various Good Management Practices factsheets available on the Southland Regional Council webpage.

3.11 Mr Matthew McCallum-Clark presents planning evidence for Southland Regional Council and addresses Objective 18 at Para 181- 196.

3.12 He considers that Objective 18 recognises an overall aim of the pSWLP to encourage good practice by all water and land users in the region including urban, rural and industrial, irrespective of activity status.

- 3.13 Mr McCallum-Clark states that the objective is a high level statement of intent and as such is an aspirational outcome.
- 3.14 He identifies three areas of concern with Objective 18 and the relief sought in appeals:
- Suitability and clarity of the term 'good management practice'
 - Suitability of the term best practicable option
 - The need for a distinction in the required management practice for industrial and trade processes.
- 3.15 Mr McCallum-Clark identifies that the use of the term good management practice and the definition of good management practice may have created an inadvertent narrowing of the objective to only relate to farming activities as all the fact sheets are farming-specific
- 3.16 He suggests that an adjustment to the objective or definition may address the inadvertent narrowing. – For instance: 'good environmental practice' may be a better overall concept.
- 3.17 In response to the Alliance Group appeal he considers that using BPO for industrial and trade processes would detract from the uniform expectation in the objective.
- 3.18 In my assessment it is evident that there is a dilemma because of the use of the term 'good management practices' in different ways – as both an aspirational intent and as a more prescribed term for practices used by farming activities. As such the pSWLP lacks clarity about the use of the term.
- 3.19 There are two possible pathways to resolve this dilemma:
- (a) Limit Objective 18 to only apply to farming activities; or
 - (b) Amend the objective to use an alternative term that is not linked to the definition of good management practices in the plan.
- 3.20 As there are no appeals on the definition of good management practices I do not consider that amending the definition is appropriate. This would have potential consequences on other provisions which are based on the current definition in the Plan and addressed in both Topic A and B appeal points.
- 3.21 In assessing these two options I have turned to the Southland Regional Policy Statement 2017 (RPS).
- 3.22 The RPS has two methods for good management practice in the Water Quality section.

Method WQUAL.12 Good management practice

Provide information and advice to the community on land management practices that will assist to maintain or improve water quality, and align this advice with industry resources and programmes where appropriate.

Method WQUAL.14 Good management practice

Work in partnership with landowners and other organisations to promote good management practices that maintain or improve water quality.

Explanation: Promoting land management practices that improve water quality could include such measures as provision of information and education and assistance with implementing good management practices for different types of land uses. While lacking the enforcement power of rules contained in plans, these types of methods can make a valuable contribution to managing water quality issues through the relationships that they build between the region's water quality stakeholders and the innovative solutions that can arise from these relationships, and through providing a robust foundation for future plan purposes.¹

- 3.23 These methods clearly intend to apply good management practice to land management activities. There is no indication that good management practices would apply to industrial and trade processes.
- 3.24 I have also considered how good management practices are implemented in the pSWLP.
- 3.25 The s32 Evaluation Report updated October 18 includes Appendix B Plan Linkages and lists the following provisions in the pSWLP that utilise the term good management practice:
- Objective 18
 - Policies 4,5,6,9,10,11,12
 - Policy 40
 - Rule 20 – Farming
 - Appendix N - Farm Environmental Management Plan
- 3.26 Policies 4, 5, 6, 9, 10, 11, and 12 are the 'physiographic policies' which all include a provision requiring implementation of good

¹ Southland Regional Policy Statement Chapter 4 Pg. 45

management practices to manage adverse effects on water quality for the respective physiographic zones.

- 3.27 Policy 40 includes consideration of adoption of good management practices as part of an assessment for determining the term of a resource consent.
- 3.28 Rule 20 is the rule for farming which requires a record of good management practices and a Farm Environmental Management Plan (FEMP) developed as set out in Appendix N. GMP is an assessment matter for consents.
- 3.29 Appendix N Farm Environmental Management Plan Section 5 is specific for good management practices and sets out a range of practices that will be undertaken. It also includes examples of good management practices provided by a range of organisations.
- 3.30 These provisions provide a very clear pathway from Objective 18 for the implementation of best management practice for farming activities.
- 3.31 Such a pathway does not exist for industrial or trade processes.
- 3.32 Policy 16A was added by decision to specifically provide for industrial and trade processes and includes best practicable option.
- 3.33 While amending Objective 18 by using an alternative term, such as good environmental practices, may address the 'aspirational' intent of the objectives such a change would lose the clear linkages between Objective 18 and the provisions for good management practices.
- 3.34 Therefore in my opinion the most appropriate amendment to address the dilemma caused by conflicting use of the term good management practice is to limit Objective 18 to 'all farming activities'. Such a usage gives effect to the methods for good management practice in the RPS and provides the overarching framework for provisions that utilise good management practices in the Plan.
- 3.35 The Alliance Group appeal seeks that Objective 18 be amended by adding 'All farming activities operate in accordance with....' I support that amendment.
- 3.36 I agree with Mr Kyle that the addition of Policy 16A renders the other change sought to Objective 18 regarding industrial and trade processes as unnecessary.
- 3.37 However I do not agree with Mr Kyle's suggested amendment to the definition of 'good management practice' as it is not subject to

appeal and the proposed change seeks to limit the application of best management practices.

4. POLICIES 6 AND 10

4.1 Closely linked to the appeal point on Objective 18 Alliance appealed physiographic zone policies that require implementation of good management practices and seeks that they be amended so it is clear that GMPs apply to farming activities and not industrial and trade processes.

4.2 Policy 6 and Policy 10 are policies for physiographic zones in which HortNZ has an interest: Gleyed, Bedrock/ Hill country and Lignite-Marine Terraces Physiographic Zone; and Oxidising Physiographic Zone.

4.3 The Alliance appeal points relate to the requirement in each policy to implement good management practices to manage adverse effects on water quality. The reasons for the appeal are similar to Objective 18 in that it is inappropriate to require industrial and trade activities to meet good management practices which are designed for farming activities.

4.4 The HortNZ s274 notice of support-in-part stated:

It is recognised that industrial and trade activities are better to operate in accordance with best practicable option as defined in the RMA so the distinction sought is appropriate.

4.5 If the Court is minded to amend Objective 18 to apply to 'all farming activities' then it would be appropriate to also amend the physiographic zone policies to apply to farming activities.

5. CONCLUSION

5.1 This evidence has responded to an appeal by Alliance Group Ltd on Objective 18 and Policies 6 and 10 of the pSWLP.

5.2 I support the use of GMPs for farming activities and seek that they be retained in the Plan as they will assist resource users to meet the requirements of the Plan in order to better achieve sustainable management of natural and physical resources.

Lynette Wharfe

1 March 2019

ATTACHMENT 1

1. Planning processes similar to the pSWLP in which I have been involved for HortNZ include:
 - Horizons One Plan
 - Marlborough Environment Plan
 - Otago RPS and PC6A Water Quality
 - Greater Wellington Proposed Natural Resources Plan
 - Northland Regional Land and Water Plan
 - Tasman Resource Management Plan Changes
2. I have also assisted HortNZ with the development of Codes of Practice for:
 - Vegetable washwater
 - Erosion and sediment control guidelines
 - Nutrient management
3. Other projects I have been involved in that I consider are relevant are:
 - (a) Project Manager and facilitator for a Sustainable Management Fund (“**SMF**”) Project ‘Reducing nitrate leaching to groundwater from winter vegetable crops’, to develop management tools for vegetable growers to implement best practice for fertiliser applications, to assist in changing fertiliser usage.
 - (b) Managed an SMF project for NZ Agrichemical Education Trust communicating the revised NZS 8409:2004 Management of Agrichemicals to local authorities throughout NZ, including development and leading workshops with councils.
 - (c) Revised the Manual for the Introductory GROWSAFE® Course for the NZ Agrichemical Education Trust, to make the Manual more user friendly and accessible and to align it with the Hazardous Substances and New Organisms legislation.
 - (d) Managing the research component for SFF project – SAMSN – developing a framework for the development of Sustainable Management Systems for agriculture and horticulture.

- (e) Project Manager MAF Operational Research Project Effectiveness of Codes of Practice investigating the use of codes of practice in the agriculture and horticulture sectors.
- (f) Undertook a review of Current Industry and Regional Programmes aimed at reducing pesticide risk, including assessing a number of Codes of Practice.
- (g) Contributed as a project team member for a Sustainable Farming Fund project 'Environmental best practice in agricultural and rural aviation' that included developing a Guidance Note on agricultural aviation, which is now on the Quality Planning website.
- (h) Undertook a review of agrichemical provisions in the Auckland Regional Air Land and Water Plan and developed a risk based response for inclusion in the Proposed Auckland Unitary Plan.