

BEFORE THE HEARINGS PANEL

UNDER

the Resource Management Act 1991

IN THE MATTER

of proposed Plan Change 9 to the Hamilton City
District Plan

**STATEMENT OF EVIDENCE OF MARK BULPITT CHRISP ON BEHALF OF
FONTERRA LIMITED FOR SESSION 1**

PLANNING

28 APRIL 2023

**Russell
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1. INTRODUCTION

- 1.1 My full name is Mark Bulpitt Chrisp.
- 1.2 I am a Partner and a Principal Environmental Planner in the Hamilton Office of Mitchell Daysh Ltd, a company which commenced operations on 1 October 2016 following a merger of Mitchell Partnerships Ltd and Environmental Management Services Ltd (of which I was a founding Director when the company was established in 1994 and remained so until the merger in 2016).
- 1.3 In addition to my professional practice, I am an Honorary Lecturer in the Department of Geography, Tourism and Environmental Planning at the University of Waikato. I am also the Chairman of the Environmental Planning Advisory Board at the University of Waikato, which assists the Environmental Planning Programme in the Faculty of Arts and Social Sciences in understanding the educational, professional and research needs of planners.
- 1.4 I have a Master of Social Sciences degree in Resources and Environmental Planning from the University of Waikato (conferred in 1990) and have more than 30 years' experience as a Resource Management Planning Consultant.
- 1.5 I am a member of the New Zealand Planning Institute, the New Zealand Geothermal Association, and the Resource Management Law Association.
- 1.6 I am a Certified Commissioner under the Ministry for the Environment's 'Making Good Decisions' course.
- 1.7 I have appeared as an Expert Planning Witness in numerous Council and Environment Court hearings, as well as several Boards of Inquiry (most recently as the Expert Planning Witness for the Hawke's Bay Regional Investment Company Ltd's proposed Ruataniwha Water Storage Scheme).
- 1.8 I have undertaken a substantial amount of work within the dairy sector working for New Zealand Dairy Group and then Fonterra Ltd ("**Fonterra**") over the last 30 years. Over that time, I have undertaken planning work in respect to all of Fonterra's dairy manufacturing sites in the Northland, Auckland, Waikato and Bay of Plenty regions. This has included re-consenting existing dairy manufacturing operations and/or associated spray irrigation of wastewater (e.g. the Hautapu and Edgecumbe sites) and major capacity expansion projects.

- 1.9 I have assisted Fonterra in resource management matters relating to the Te Rapa Dairy Manufacturing Site ("**Te Rapa Site**") over the last 25 years. This has included:
- (a) Securing consent for the Cream Cheese Plant in 1996;
 - (b) Securing consents for the Capacity Expansion and Co-generation Plant in 1997 – 1998. This included a new drier, dry store extension, grade separated access, wastewater treatment plant, land-based wastewater treatment and discharge to the Waikato River, and gas-fired co-generation power plant;
 - (c) Preparation of the Management Plan for the Mangaharakeke Pa Site located in the north-eastern part of the Te Rapa Site;
 - (d) Oversaw the carving and unveiling ceremony of seven pou whenua on the Mangaharakeke Pa Site;
 - (e) Secured consents for the upgrade of the water intake structure on the Waikato River; and
 - (f) Submissions and appeals in relation to the planning provisions relating to the Te Rapa Site in the Waikato District Plan and (subsequently) the Hamilton City District Plan.
- 1.10 I have been engaged by Fonterra to present planning evidence in relation to Session 1 of Plan Change 9 ("**PC9**") to the Hamilton City District Plan ("**District Plan**"). The focus of my evidence is SNA C59 proposed in the north-eastern part of the Te Rapa Site. Specifically, my statement of evidence will:
- (a) Provide a brief background to the operations at Te Rapa;
 - (b) Review the approach taken by the Hamilton City Council ("**Council**") to SNA C59 and the output of expert conferencing;
 - (c) Consider the additional information requirements contained in Appendix 1.2 of the District Plan associated with activities that require resource consent for works within historic heritage areas ("**HHAs**"); and
 - (d) Respond to matters raised in the s 42A report and expert evidence for the Council.

Code of Conduct

- 1.11 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and I agree to comply with it.
- 1.12 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 that I have relied on the evidence of other persons. I have not omitted to consider material facts known to me that might alter or detract from the opinions I have expressed.

2. BACKGROUND TO OPERATIONS AT TE RAPA

- 2.1 Fonterra's Te Rapa Site first opened in 1968. The Te Rapa Site processes over 8 million litres of milk each day during peak season and produces approximately 325,000 tonnes of milk powder and cream products each year. The milk used at the Te Rapa Site is sourced from farms located primarily within the Waikato Region.
- 2.2 The Te Rapa Site is a critical asset for Fonterra, with a replacement value of \$1 billion. The Site is not only important to Fonterra. It is a regionally significant industrial operation, employing over 700 full time equivalent staff (including Contact Energy's co-generation plant and Milktest's facilities). It pays approximately \$58 million in wages and salaries each year and purchases approximately \$90 million of goods and services from local businesses.

3. SNA C59

- 3.1 PC9 includes SNA C59 proposed in relation to the gullies in the north-eastern part of the Te Rapa Site. These gullies were developed, including a series of weirs, primarily for the land-based treatment and disposal of wastewater and stormwater associated with dairy manufacturing activities occurring on the site. This was to address cultural issues whereby the wastewater and stormwater has contact with Papatūānuku prior to being discharged to the Waikato River.
- 3.2 When the land-based treatment and disposal system was constructed (including a rock outfall to the Waikato River), the existing exotic vegetation around these gullies (consisting of weeds, black berry bushes etc.) was cleared and subsequently replanted by Fonterra with native vegetation. This vegetation is what is currently present within the site and is what is now being classified as SNA C59 under PC9.

3.3 Fonterra's submission seeks the deletion of SNA C59.

3.4 As noted in Chapter 20 (Natural Environments) of the District Plan, SNAs are classified in accordance with the criteria for determining significant indigenous biodiversity, which is contained in Section 11A of the Waikato Regional Policy Statement ("**RPS**"). Within Section 11A (above Table 11-1) is the following statement:

Areas of significant indigenous biodiversity shall not include areas that have been created and subsequently maintained for or in connection with:

- artificial structures (unless they have been created specifically or primarily for the purpose of protecting or enhancing biodiversity); or
- beach nourishment and coastal planting (unless they have been created specifically or primarily for the purpose of protecting or enhancing biodiversity).

3.5 This aspect of Fonterra's submission was discussed at the expert caucusing session in relation to ecology and planning matters relating to PC9. The Joint Witness Statement dated 14 March 2023 records the following:

SNA C59 on the Fonterra Te Rapa site – Mark Chrisp's position is that the RPS criteria are appropriate for identifying SNA's. Those criteria include an exemption where indigenous vegetation has been created in connection with artificial structures which is the case in relation to part of proposed SNA C59. It is agreed as between Mark Chrisp and Emily Buckingham that the northern and southern gullies (which are a wastewater and stormwater treatment area including various structures) falls within the exemption and should not be identified as an SNA. The balance of SNA C59 extending to the north of the Te Rapa site boundary and along the margin of the Waikato River south of the outfall structure can remain as an SNA. Attachment 1 to this JWS is a diagram showing the area to be deleted from SNA C59.

3.6 Attachment 1 to the JWS is reproduced as follows:



- 3.7 On the basis of the above, I support the deletion of the part of SNA C59 shown on the plan above outlined in red as recommended in Section 5.3.3 of the Planning Report prepared by Craig Sharman, Yin May Soe, Emily Buckingham and Va Mauala dated 6 April 2023.

4. INFORMATION REQUIREMENTS IN RELATION TO HISTORIC HERITAGE AREAS

- 4.1 In its submission, Fonterra opposed the requirement in Appendix 1.2 – Section 1.2.2.8 of the District Plan for the provision of a Heritage Impact Assessment as part of any resource consent application for works in a Historic Heritage Area on the basis that it is unnecessary. This is because this information is already required to be supplied to Heritage NZ to obtain relevant authorisation(s) under the Heritage New Zealand Pouhere Taonga Act 2014 prior to any undertaking of such works. The additional information requirements therefore create a double handling of information without adding value to the process.
- 4.2 As far as I can ascertain, the Planning Report dated 6 April 2023 is silent on this part of Fonterra's submission other than the comment on page 38 that

“Some submissions opposed the requirement for HIAs entirely” but appears to not support or propose any change as a result of it.

- 4.3 This situation is reminiscent of the situation that was proposed early in the life of the Resource Management Act 1991 whereby first-generation proposed district and regional plans proposed to duplicate the functions of Heritage NZ when activities are proposed on recorded archaeological sites by requiring a resource consent. This could have potentially resulted in a resource consent being required from Waikato Regional Council and the relevant territorial authority and an Authority being required from Heritage NZ - three consents for exactly the same activity. Such an outcome would have been an inefficient waste of time and resources in my opinion. Furthermore, Heritage NZ is the specialist jurisdiction with the expertise to consider and determine any proposals to modify or destroy an archaeological site. In my opinion, there is little or nothing that a regional council or territorial authority will positively add to the analysis of such a proposal scrutinised by Heritage NZ.
- 4.4 As a result of submissions and evidence that I presented on behalf of a number of clients (including Fonterra) in relation to the Proposed Waikato Regional Plan, it was accepted that holding an Authority from the Historic Places Trust (now Heritage NZ) avoided the need for a resource consent under the Waikato Regional Plan. By way of an example, the way this has manifested itself in the Waikato Regional Plan is in Section 5.1.5 setting out the conditions for permitted activities (in this case earthworks) including the following:

The activity shall not disturb any archaeological site or waahi tapu as identified at the date of notification of this Plan, in any district plan, in the New Zealand Archaeological Association's Site Recording Scheme, or by the Historic Places Trust except where Historic Places Trust approval has been obtained.¹

- 4.5 If someone holds an Authority from Heritage NZ to modify or destroy an archaeological site (which is a legal requirement before any works on a recorded archaeological site are undertaken), then no further assessment (or resource consent) should be required under the District Plan. It adds no value and only imposes unnecessary additional costs and therefore is not appropriate.

5. CONCLUSION

- 5.1 Based on the above:

¹ Condition g in Section 5.1.5 of the Waikato Regional Plan.

- (a) I support the recommendation in the Planning Report to delete part of SNA C59 as shown in red outline in Annexure 1 to the JWS dated 14 March 2023 and reproduced in my evidence.
- (b) In circumstances whereby an Authority is required from Heritage NZ to modify or destroy an archaeological site, then no further assessment (or resource consent) should be required under the District Plan.

Mark Chrisp
28 April 2023