

Before an Independent Hearings Panel

The Proposed Waikato Regional Plan Change 1

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

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

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

(Corporate)

Dated: 5 July 2019

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1. EXECUTIVE SUMMARY

- 1.1 My full name is Grant Ian Jackson. I am the current General Manager of Milk Supply at Miraka Limited. My evidence addresses the use of the concept of Enterprise.
- 1.2 Enterprises are defined in Plan Change 1 as one or more parcels of land that constitutes a single management unit. Various rules and policies in Plan Change 1 refer to Enterprises and a Nitrogen Reference Point could be obtained for an Enterprise. A number of parties and the Section 42A report recommend deletion of the term Enterprise in its entirety.
- 1.3 Miraka supports the use of Enterprise within PC1. The key reasons for Miraka's support are:
- (a) That historical decisions may have been made to limit the intensification of some land within an Enterprise without any consideration for property boundaries. For example, historical decisions to retire steeper land to forestry. There should be ways to reflect such past land practice in the Plan Change;
 - (b) There may also have been restrictions to land development opportunity relating to Treaty processes, such as delays in returning land or the status of land as Maori land affecting development;
 - (c) It facilitates the GMP of land use rotation which creates agronomic and environmental benefits to the whenua; and
 - (d) The additional flexibility of an Enterprise structure may improve the ability of a farm business to achieve good financial returns.
- 1.4 However, it considers a minor amendment would provide greater certainty of interpretation for plan implementation.

***Enterprise** means one or more parcels of land under the same management structure held in single or multiple ownership to support the principle land use or which the principle land use is reliant upon, and constitutes a single operating unit for the purposes of management. An enterprise is considered to be within a sub catchment if more than 50% of that enterprise is within the sub catchment.*

- 1.5 Miraka believes the Stage 1 objectives of the Vision and Strategy can be better achieved by maintaining separate Enterprise and property definitions to reflect single management and single ownership blocks of land within a sub-catchment respectively.
- 1.6 Overall, the use of Enterprise in PC1 provides an ability for improved land management practices and better reflects the reality of the variety of farming operations.

2. INTRODUCTION

- 2.1 My full name is Grant Ian Jackson. I am the General Manager of Milk Supply for Miraka Limited (**Miraka**). My qualifications and experience are outlined in my evidence for Block 1, dated 15 February 2019.
- 2.2 I have also been responsible for co-ordinating and leading Miraka's submissions and response on Plan Change 1 and Variation 1 (**Plan Change 1**). In that role I have become familiar with the provisions of Plan Change 1 and their implications for Miraka.
- 2.3 I am authorised to give this evidence on behalf of Miraka.

3. SCOPE OF EVIDENCE

- 3.1 My evidence addresses the use and definition of Enterprise within Plan Change 1.
- 3.2 My evidence should be read alongside that of Ms Kim Hardy.
- 3.3 This topic is specifically addressed in the Section 42A report. I have read the Section 42A report and respond to the analysis and recommendations on the definition of Enterprise within the Plan Change as notified. Other submitters have provided commentary on the definition of Enterprise and I will refer to some of these.

4. OVERVIEW OF ISSUE – ENTERPRISE, PROPERTY OR BOTH

- 4.1 Miraka supported the definition of Enterprise in the notified version of Plan Change 1 but is open to a refreshed definition to ensure improved community certainty in the definition and its related provisions.
- 4.2 The definition of Enterprise in the notified version of the Plan was:

Enterprise means one or more parcels of land held in single or multiple ownership to support the principle land use or land which the principle land use is reliant upon, and constitutes a single operating unit for the purposes of management. An enterprise is considered to be within a sub-catchment if more than 50% of that enterprise is within the sub-catchment.¹

- 4.3 A particular concern for Miraka is the **scale** of any regulatory targets or actions/mitigations by any individual Enterprise within a sub-catchment/FMU. That is, how is land area across which any regulatory target is defined.
- 4.4 Other parties have submitted against the current definition for various reasons, including:

¹ Brodie PC1-2889, Waitomo District Council PC1-10312, G Kilgour PC1-1884.

- (a) To restrict the definition to single ownership only;
- (b) For land parcels to be operationally dependent on each other;
- (c) To consolidate the definitions of “Property” and “Enterprise” into a single term to reduce confusion; and
- (d) That the current definition creates uncertainty for Nitrogen Reference Point allocation scale, ownership and movement.

I will address these issues below in Section 6.

4.5 Plan Change 1 currently refers to both “Enterprise” and “Property” and other parties have requested the removal of one of these terms and for each to be replaced with the other under a revised definition or that the two terms be used interchangeably. Miraka considers the use of a single Enterprise term will reduce uncertainty and enable the plan to be implemented to achieve the ambitions of Stage 1.

4.6 Miraka believes that to ensure an equitable approach, any definition or associated method must:

- (a) Be flexible enough to represent the variety of commercial, property and management arrangements within the farming community;
- (b) Facilitate the adoption of Good Farming Practices to meet Stage 1 objectives;
- (c) Deter manipulation for undesirable effects; and
- (d) Consider past efforts, investments and circumstances that may have restricted historical opportunity within the full context of a whole operation.

5. BENEFITS OF ENTERPRISE

5.1 Miraka believes that any regulatory targets used as a framework to engage practice change towards achieving sub-catchment goals (either by way of a specific nutrient limitation or contaminant mitigation action) should be able to be set at the scale of a consistent legal Enterprise land holding within a specific sub-catchment. This allows for a basis of mixed land use within that Enterprise as long as the overall “unit” delivers on sub-catchment targets.

5.2 Facilitating individual Enterprises to make land use decisions “within” their own unit of ownership within a sub-catchment will allow for a sustainable rotation approach to soil use to optimise existing fertility, reducing long term fertiliser requirements, and reducing the negative impacts on soil structure associated, for example, with continuous

cropping. It will also allow for the optimisation of market trends to benefit financial prosperity. All are important elements of sustainable farming practice decisions made every day.

- 5.3 A key element to appropriately defining all land-uses within an Enterprise is that it will incentivise Enterprise owners to make appropriate mitigation decisions and actions rather than disincentivise them. Farmers will be able to focus on optimising the most appropriate land type for its use and retire those areas of land less suited to primary or intensive product at their own discretion or within the guidance of a certified Farm Environment Plan.
- 5.4 A good example demonstrated by an existing farming enterprise supplying milk to Miraka was a decision two years ago to optimise land use by retiring steeper pastoral slopes into trees to mitigate sediment/E. coli/Phosphorus discharge. These pastoral hectares were replaced by the transfer of traditional cropping land over the summer from pastoral land to a separate flat forestry block that the enterprise owned. The net effect was no reduction in pastoral production, no reduction in tree canopy, and the use of a sound water contaminant runoff mitigation benefited the adjoining stream (by applying Land Use Capability principles). Had the enterprise been restricted to the existing pastoral area only, while the steeper slopes may have been retired and the cropping of the flat pastoral land ceased, the forestry block would not have been able to intensify land use to a cropping operation and the harvested crop would unlikely have been able to have been introduced to the effective pastoral areas as a new feed source. This would have the effect of de-incentivising the retirement of steeper pastoral land due to significant financial hardship on the business.
- 5.5 The key reasons for Miraka's support of the current definition of Enterprise are:
- (a) That historical decisions may have been made to limit the intensification of some land within an Enterprise without any consideration for property boundaries. For example, historical decisions to retire steeper land to forestry. There should be ways to reflect such past land practice decisions in the Plan;
 - (b) There may also have been restrictions to land development opportunity relating to Treaty processes, such as delays in returning land or the status of land as Maori land affecting development;
 - (c) It facilitates the GMP of land use rotation which creates agronomic and environmental benefits to the whenua; and
 - (d) The additional flexibility of an Enterprise structure may improve the ability of a farm business to achieve good financial returns.

6. SUBMITTER REQUESTS AND SECTION 42A

Same ownership

- 6.1 I understand other submissions seek a redefinition to single land ownership and removal of the reference to multiple ownership. Miraka does not support this view as farming operations under a single management structure can involve inconsistent land ownership but present the same risks to fresh water quality. For example, a family-owned farm with a long-term lease block adjoining the family owned land parcels. Alternatively, additional land can be purchased next to or close to a family farm by future generations as part of a robust succession plan for farm ownership. Each of these examples are legitimate reasons to support a multi-ownership framework within the definition of Enterprise for the purpose of a consent and FEP.

“Dependency” between land parcels

- 6.2 The Section 42A Report (C4.6.2.1) identifies that some submitters seek a requirement for dependency between land uses in order for there to be common operational ties of within an Enterprise.
- 6.3 Dependency between land uses could be a sensible factor to take into account when determining what is an Enterprise. It may assist to exclude larger organisations that have multiple land holdings but are not operated together in one management structure. However, it could be challenging to determine which blocks of land are dependent on others. For example, a 100ha farm may have 30ha of exotic forestry, 30ha of continuous contracted maize grain production and the balance of 40ha used as an extensive sheep breeding block. I would consider those parcels are inter-dependent, but others may not. I consider the existing definition is appropriate and it is not necessary to include any additional reference to inter dependence of blocks within an Enterprise.

Multiple sub-catchments

- 6.4 Miraka does support the submission by Ata Rangī 2015 Limited P/ship and Southern Pastures Limited P/ship that an Enterprise stretching outside a single sub-catchment, with continuous boundaries between the sub-catchments, should be linked to the sub-catchment in which the greatest proportion of the Enterprise is located. The later wording supports the further clarity sought by WRC submissions.

Property Definition

- 6.5 Miraka supports Section 42A definition of property in C4.6.4 (566). The key difference between this definition and 'Enterprise' is the element of **consistent shared**

management. There are different management and property arrangements within the farming community that may fall under either term.

- 6.6 For example, a Maori Trust might own 100ha in continuous parcels of land but provide a 50-year lease to a neighbouring farm owner to extend their operations. The “property” is all the continuous land parcels owned by the Trust, while the two “Enterprises” are the Maori Trust whose land is under their management, and the neighbouring land owners, whose property inclusive of the leased land is under their continuous operational management.

Enterprise Definition

- 6.7 Miraka does acknowledge some submitter concerns that the current definition of Enterprise could provide uncertainty to the community in certain circumstances, resulting in situations where the intent of the Plan is not met. Miraka would support amendments to the definition to provide certainty while retaining key existing factors, including as an example definition:

***Enterprise** means one or more parcels of land **under the same management structure** held in single or multiple ownership to support the principle land use or which the principle land use is reliant upon, and constitutes a single operating unit for the purposes of management. An enterprise is considered to be within a sub catchment if more than 50% of that enterprise is within the sub catchment.*

- 6.8 Miraka does not support the position outlined in the Section 42A report (C4.6.4 (573) that NRP thresholds be based on the “land use for farming” rather than the entire area of the “Enterprise”. Miraka strongly believes that an NRP should be held across an entire Enterprise of multiple land uses such as forestry and pastoral. This ensures that consideration for historical decisions to limit intensification do not now unfairly penalise current operations.
- 6.9 In the example used in 6.6 above, the Maori Trust may have decided not to convert the forestry block into pastoral land for reasons relating to past Treaty grievances, governance capability, or an awareness of land use suitability aligned to kaitiakitanga values. The important factor is the net N Loss footprint of that property in that catchment. There seems no need to limit the NRP to just the currently farmed area. The reality of many farming operations is that they are not of single land use, but involve a complex mosaic of grazing, cropping, forestry, retirement blocks etc. It is important to remove any barriers to optimal land management decisions that strive to achieve the objectives of their FEP and the greater objectives of their sub-catchment.
- 6.10 I understand Ms Hardy’s evidence will address this amendment further.

Schedule B – NRP

- 6.11 Miraka has submitted against the adoption of NRPs as a tool to achieve Stage 1 objectives and has provided evidence to support its position in Blocks 1 and 2. Should the Panel still recommend the inclusion of an NRP for the purpose of capping land use N Loss Miraka supports the retention of Enterprise within that definition.
- 6.12 I note the observation in the Section 42A report (C4.6.4 (571)) that while a property is defined as having a continuous boundary, it does not preclude the ability for a person or entity to apply to have several properties under one resource consent or FEP. Miraka supports this view and suggests it also be extended to an Enterprise, whereby a single consent and FEP can be administered across multiple non continuous parcels of land within a single sub-catchment (of >50% of a single property) that is under a single management structure. An Enterprise might, therefore, with a single consent and FEP contain multiple properties (as previously defined).
- 6.13 Miraka does not support the statement in the section 42A Report (C4.6.4 (573)) that registration, FEPs and NRPs should be required at the property level, but rather that an Enterprise should be able to be registered as a single entity.

7. SUMMARY

- 7.1 Miraka believes the Stage 1 objectives of the Vision and Strategy can be better achieved by maintaining separate Enterprise and property definitions to reflect single management and single ownership blocks of land within a sub-catchment respectively. Assigning the NRP across an entire block of land and not just the pastoral land and assigning an NRP consent to an Enterprise will facilitate Good Farming Practice decisions, will not penalise for past decisions to restrict intensity and will recognise past investments for the greater prosperity of a community.

Grant Ian Jackson

5 July 2019