

BEFORE THE HEARINGS PANEL AT RANGIORA

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the hearing of submissions on The
Proposed Waimakariri District Plan
Hearing Stream 6

STATEMENT OF EVIDENCE OF LYNDA WEASTELL MURCHISON

FOR THE NEW ZEALAND PORK INDUSTRY BOARD

25 SEPTEMBER 2023

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SUMMARY STATEMENT

1. This statement of evidence has been prepared in relation to a submission from the New Zealand Pork Industry Board (“**NZPork**”) on the Waimakariri District Council’s (“**WDC**”) Proposed Waimakariri District Plan (“**PDP**”), Hearing Stream 6.
2. My evidence focuses on describing current issues with odour complaints and reverse sensitivity with commercial pig farms in Waimakariri and Selwyn Districts, to assist the Hearings Panel in determining the best approach to managing reverse-sensitivity effects in the Proposed Waimakariri District Plan.
3. In my experience, pig farming activities and farming activities in general have effects which are not typical in urban environments. This can result in ‘reverse-sensitivity’ effects with people who move to the country from urban areas, especially on rural lifestyle blocks (4-hectare blocks).
4. In my opinion, the most efficient and effective way to manage this issue is to ensure adequate separation between rural land uses and land uses which may be sensitive to those activities.
5. Other mechanisms such as relying on regional rules to control odour or ‘no complaint’ covenants are not as efficient or effective.

QUALIFICATIONS AND EXPERIENCE

6. My name is Lynda Marion Weastell Murchison (Dr). I am employed part-time as the Environment and Planning Manager with NZPork.
7. I am also engaged as an adjunct lecturer at Lincoln University and as an advisor to Hokonui Rūnanga Inc, Hokonui Rūnanga Kaupapa Taiao (trading as Hokonui Floriculture Ltd), Te Rūnanga o Moeraki and the Te Wai Parera Trust. These Ngāi Tahu entities are based in Ōtaki/Otago and Murihiku/Southland and have no interest in the Proposed Waimakariri District Plan.
8. I hold the following relevant qualifications:
 - A PhD in Environmental Policy and Planning and a Master of Arts degree (First Class honours) in Geography from Canterbury University

- Post-graduate qualifications in Advanced Regional, Urban and Resource Planning and Natural Resource Law from Lincoln and Canterbury universities respectively
 - New Zealand Certificate in Agriculture from the Open Polytechnic
 - Full membership of the New Zealand Planning Institute.
9. I have worked as a senior planner or planning manager for over 25 years, including as the District Planner for Selwyn District Council, Principal Planning and Consents Advisor for Environment Canterbury (Canterbury Regional Council), Environmental Planning lead for Te Rūnanga o Ngāi Tahu and in private practice. I also lecture in environmental planning and farm planning.
 10. I have extensive experience in environmental planning, regulation and compliance across a range of topics including: urban planning, rural land uses, air quality, freshwater, indigenous biodiversity, coastal environments, natural hazards and climate change.
 11. I am familiar with Waimakariri District, rural land uses within Canterbury and the primary sector generally, and pig farming in particular.
 12. I also have an extensive background in plan drafting, including the operative Selwyn District Plan, the Freshwater Chapter of the Canterbury Regional Policy Statement, the first draft of the Canterbury Land and Water Regional Plan, several catchments plans and many plan changes to both regional and district plans.
 13. While these are not proceedings in the Environment Court, I have prepared my evidence in accordance with the Environment Court's Code of Conduct for Expert Witnesses. My qualifications 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 other information. I have not omitted to consider material facts known to me that might alter or detract from any opinions expressed. While I am an employee of NZPork, all opinions expressed in my evidence are my own professional opinions.

SCOPE OF EVIDENCE

14. I have been asked to provide evidence on the following matters:
- Complaints about pig farming within Waimakariri District or the broader Canterbury Region; and
 - The efficacy of the response for managing reverse-sensitivity effects.

COMPLAINTS AND REVERSE-SENSITIVITY EFFECTS

15. In his evidence, Mr Barugh states that the vast majority of complaints about pig farming from neighbours relate to odour. While I do not have Mr Barugh's 50 years of industry experience, I concur that in my experience as a planning manager in local government and in my current role, odour seems to be the predominant cause of complaints about pig farming from surrounding residents.
16. In my experience, the complaints are nearly always from people who have moved into the area after the pig farming activity was established, and tend to be living on small rural lifestyle blocks (4 hectares or less).
17. There are 10 commercial indoor piggeries located within Waimakariri District. Of these ten commercial piggeries, half (five) are located wholly within what is now the proposed Rural Lifestyle Zone (RLZ) and another indoor piggery is located on the boundary between the General Rural Zone (GRUZ) and the RLZ. As well as the piggeries themselves, these operations own, lease or contract land nearby on which they spread pig effluent.
18. As Mr Barugh states in his evidence, there are good management practices (GMPs) that pig farmers can and should undertake to minimise odour. I agree that there is an onus on pig farmers to undertake all reasonable steps to ensure they operate at GMP and that any odour is reasonable for an activity of this nature.
19. However, I am aware of examples where, despite the farmer operating within industry approved GMPs, and despite the complaints being investigated by Environment Canterbury (the Canterbury Regional Council) and deemed unfounded, the complaints continue and escalate.

20. Two examples I am currently involved with are of this nature. These examples illustrate why, in my opinion, this issue is most efficiently and effectively addressed through land use planning mechanisms which separate farming activities from rural-residential and other potentially sensitive activities.
21. I shall outline each example below.

Example One – Selwyn District

22. The first example relates to an outdoor piggery which is a 'free-farmed' system as described in Mr Barugh's evidence. The piggery is located near Rolleston in Selwyn District and was established over 50 years' ago. The farmer is a recognised and awarded industry leader and former chairperson of NZPork.
23. Like many farmers in the Greater Christchurch area, the piggery has gone from being surrounded by sheep and cropping farms when it was established to being surrounded by rural lifestyle blocks, mostly 4 hectares in size.
24. In 2021, a new resident moved into the area. Over the next twelve months, this resident made over 100 recorded complaints to Environment Canterbury about odour from the piggery.
25. Intensive pig farming is defined in the Canterbury Regional Air Plan as:

"means the keeping, rearing or breeding for any purpose of more than 25 pigs that have been weaned, or more than six sows, where the predominant productive processes are carried out within buildings or closely fenced outdoor runs or where the stocking density precludes the permanent maintenance of vegetation cover but excludes extensive pig farming."
26. The free-farmed piggery in this example falls under that definition as the growers are housed in barns.
27. Under Rule 7.65 of the Canterbury Regional Air Plan, the discharge of odour from any intensive pig farm is a permitted activity if the pig farm was established prior to 01 June 2002 and

“The discharge of odour does not cause an offensive or objectionable effect beyond the boundary of the property of origin, when assessed in accordance with Schedule 2; and

From 1 June 2002 there has been no increase in the scale of the farming activity.”

28. My understanding is that Environment Canterbury compliance officers investigated every complaint made to Environment Canterbury about this piggery in 2021-22. In all but one instance, they found no offensive or objectionable odour beyond the boundary of the property as measured in accordance with Schedule 2 of the Canterbury Regional Air Plan.
29. The one instance where the odour was found to be in breach of Rule 7.65 was in an exceptional circumstance where, after a prolonged spell of heavy rain in winter 2022, composted bedding material was being stored on site until conditions enabled it to be spread in a compliant manner.
30. The farmer has informed me that the complainant sold her property in 2022 and brought a new property closer to the piggery. My understanding is that this property is now for sale.

Example Two – Waimakariri District

31. The second example relates to an indoor piggery within Waimakariri District, in the Mandeville area. As with the first example, this piggery is long established and over time has become increasingly surrounded by 4-hectare rural lifestyle blocks.
32. The operative Waimakariri District Plan includes provisions that require a minimum separation distance between dwellings and intensive farming activities under Rules 31.19.1.1 to 31.19.1.4. Table 31.4 shows those separation distances as set out in the plan.
33. In 2004, the Council received an application to subdivide an adjoining property into four 4-hectare allotments with a dwelling to be erected on each lot within the separation distances required under the plan.

Table 31.4: Separation Distances Between Intensive Farming Activities, and Dwellinghouses or the Residential Zones/Mapleham Rural 4B Zone

| Intensive Farming Activity | Units of Production (see Chapter 1: Definitions) | Separation Distance from the Notional Boundary of any Dwellinghouse or Residential Zone/Mapleham Rural 4B Zone (m) |
|--|--|--|
| Piggery (P value) | 150 to 500 | 200m |
| | 501 to 3000 | 500m, or unit of production to the nearest 50 x 0.25m, whichever is the greater, to a maximum of 750 metres |
| Poultry – including egg and broiler production (number of birds) | 500+ | 300m |
| Cattle (number) | 50 to 100 | 100m |

34. The pig farm opposed the application, and it was initially declined by the Council. However, the applicant appealed the decision to the Environment Court and the Council settled the appeal by way of a consent order.
35. The consent order allowed the subdivision subject to conditions. The conditions included the registering of a 'no complaints' covenant over each allotment created.
36. A copy of the land covenant is included as Attachment One. Names have been redacted.
37. The covenant grants the right to undertake the housing of pigs and the activity of effluent spreading over specified land areas in favour of the pig farmer as the dominant tenement.
38. It states that the Grantor of the covenant shall not make or lodge, be a party to, or finance or contribute to the cost of any complaint, application or other process designed or intended to limit, prohibit or restrict the carrying on by the Grantee, Lessee or other duly authorised agent of any permitted activity or activities permitted by a resource consent, or any existing use by the dominant tenement or any part thereof.
39. The land covenant is binding on the owners and all successive owners in title to the land.
40. The pig farmers have told me they had good relationships with the original owners of the new allotments created. However,

in 2017, one of the properties subject to the covenant was on-sold. Since that time, Environment Canterbury has received multiple complaints about odour t. In all instances to date, Environment Canterbury compliance officers have found odour discharge from both the piggery and the land used to spread effluent have complied with the rules for the discharge of odour in Canterbury Regional Air Plan.

41. The complainant is now circulating leaflets among adjoining property owners encouraging them to complain. A copy of one of the leaflets it attached as Attachment Two.
42. The pig farm owners are having difficulty getting confirmation from Environment Canterbury as to who the complainant is, as Environment Canterbury does not inform people who is making complaints. Being able to verify the complainant is necessary to enforce the 'no complaints' covenant.
43. Legal submissions for NZPork will outline the burden of proof and the process required to enforce a 'no complaint' covenant.
44. In 2012, the Waimakariri District Council received another resource consent application to erect a dwelling on an allotment which is within the setback distance for spreading of animal effluent under the district plan. That allotment adjoins the area leased by these farmers to spread effluent but is not one of the allotments subject to the 'no complaint' covenant described above.
45. The operative district plan contains provisions for the erection of dwellings in proximity to land used for the spreading of effluent under Rules 31.19.1.5 to 31.19.1.11. The separation distances are in Rule 31.19.1.9, Table 31.5 which is copied above. The separation distances vary with the type of effluent system used. Mr Baraugh's evidence notes that different effluent treatment systems can affect odour.
46. Non-compliance with the separation distances is a controlled activity under Rule 31.20 provided the allotment was created before July 2007 and the applicant has the written approval of the party spreading effluent; otherwise it is a restricted discretionary activity under Rule 31. 21.

Table 31.5 Minimum Separation Distances (m)

| | Application of Effluent Stored Anaerobically for More than 48 hours | Application of Effluent Stored for Less than 48 hours or an Anaerobic Lagoon | Subsoil Injection or from an Aerobic Lagoon | Application of Effluent from Tertiary Treatment Systems |
|--|---|--|---|---|
| From any Residential 1, 2, 3, 5 or 7 Zone | 2000 | 1500 | 500 | 400 |
| From the Mapleham Rural 4B Zone, any Business 1 or 2, or Residential 4A or 4B Zone | 1000 | 500 | 200 | 150 |
| From any dwellinghouse in a Rural Zone on a separate site | 500 | 250 | 150 | 125 |
| From any dwellinghouse on the same site | 20 | 20 | 20 | 20 |

47. To enable these rules to be enforced, the Council has a register of the location of land consented and used for spreading animal effluent. The pig farmers in this example had registered the land they lease for spreading effluent on the Council register.
48. A resource consent was granted for a dwelling to be erected within the separation distances specified in the plan as a controlled activity, without written approval from the pig farmers.
49. A letter of apology from the Council is included in Attachment Three to my evidence. The name and address of the pig farm has been redacted. The letter explains that the processing officer was not aware that the rule required the written approval of affected parties to be processed as a controlled activity.
50. Please note, the rule numbering in the letter differs from that in the operative plan today, possibly as a result of numbering

changes as additional rules have been introduced to the plan over time.

51. The letter goes on to explain that without the written approval of the pig farmers, the activity should have been processed as a restricted discretionary activity, and may or may not have required written approval as a matter of discretion for the consent authority.

CONCLUSIONS

52. Reverse-sensitivity issues are real in relation to pig farming in Canterbury generally and in Waimakariri District.
53. The vast majority of reverse-sensitivity effects pertaining to pig farming manifest as odour complaints from neighbours on small rural lifestyle properties.
54. Complaints can relate to the piggery itself or the activity of spreading animal effluent onto land and occur in relation to both indoor and outdoor free-farmed systems.
55. Even when compliance and enforcement action by Environment Canterbury found repeatedly that there was no objective or offensive odour in the two examples, the complainants persisted with their complaints.
56. The persistence and escalating nature of complaint activity has been unpleasant and stressful for the farmers involved (and I imagine for the complainants too, though I can only speculate about that). It is also resource consuming for the farmers and for Environment Canterbury to respond to repeated complaints.
57. My understanding is that the primary function of land use planning as a discipline, is to manage potential conflict between different or competing land uses and associated values.
58. The examples outlined in my evidence have shown that relying solely on regional council rules in relation to odour discharges is not sufficient to manage this land use conflict.
59. The examples in my evidence also illustrate the limitation of using 'no complaint' covenants as a management option for potential reverse-sensitivity effects.
60. Finally, the examples have shown the limitation of using land use separation rules in a district plan, if the rules are not

enforced by the Council. However, in my view, land use control is the most efficient and effective option to manage potential-reverse sensitivity effects.

61. I believe the best form of land use control is to ensure land used for primary production is zoned Rural and that the Rural Zone provisions support primary production and associated amenity values.
62. The Rural zoning ought to be reinforced by the use of separation distances between primary production activities and activities which are likely to be sensitive to the effects of primary production.



Lynda Murchison
25th September

ATTACHMENT ONE – LAND USE COVENANT
(see second pdf file for attachments)