

BEFORE THE INDEPENDENT COMMISSIONERS

IN THE MATTER of the Resource Management Act
1991

AND

IN THE MATTER of the Proposed Canterbury Land
and Water Regional Plan

**HEARING GROUP 1 FISH AND GAME QUESTIONS OF CLARIFICATION
TO FONTERRA, DAIRYNZ**

11 MARCH 2013

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1. Leave is respectfully sought for questions of clarification to be put to Geoffrey Butcher, Gerard Willis and Shirley Hayward, witnesses for Fonterra and DairyNZ.
2. As clarified by the Chair during questions of clarification of Environment Canterbury's ("ECan") section 42A report writers, where practicable the panel's preference is for questions of clarification to be provided in writing to the hearing manager and the party concerned prior to appearance at the hearing. Depending on the nature of the response required, the witness has the option of preparing a written response.
3. Fish and Game agree that this approach will be helpful, and note that this does not preclude the ability to seek leave to have additional questions put to the witness should they arise during the presentation of evidence and/or responses to questions from the panel.
4. Fish and Game respectfully requests that where a written response is deemed appropriate, that this be provided in advance of Fish and Game's own presentation. Fish and Game's presentation in Hearing Group 1 commences on **8 April**. Fish and Game request that responses be provided by **2 April** if they cannot be provided on the day the witness presents.
5. Counsel is happy to answer any questions in respect of the below.

QUESTIONS FOR G BUTCHER ON BEHALF OF FONTERRA/DAIRY NZ

Question 1

6. At paragraph 4.1 of your evidence in chief you note that you have been asked to comment on the economic efficiency and economic activity implications of the Darfield factory being unable to continue, or having to stop production for short periods during times of water restrictions.

7. **The question of clarification is, what is your understanding of the likelihood of the factory having to stop operations during times of water restrictions? What volumes of water does the factory require on a daily basis, and what storage capacity does the factory have? Did you factor the cost of providing the necessary storage into your analysis, and if so, what was the cost?**

QUESTIONS FOR I GOLDSCHMIDT ON BEHALF OF FONTERRA/DAIRY NZ

Question 2

8. At paragraph 5.8 of your evidence in chief you state:

One of the key reasons the Darfield site was selected as an appropriate site for development was because in its previous use as a dairy farm, the site held large groundwater take permits. Ongoing access to water is critical for Fonterra's long term growth plans at Darfield and so these permits made the Darfield site attractive. It would be detrimental to the viability of the Darfield operation if some of the water currently consented for use on the site were to be taken away at re-consenting stage. Reduced water for this site could affect current operations given that Darfield is already highly efficient in terms of water use. Reduced water would also definitely affect the anticipated future development of the site. Fonterra considers that the Plan should therefore provide for ongoing access to water, even if currently not being used, if a future legitimate use can be demonstrated by the applicant.

9. **Is the Darfield site in the red, over-allocated zone? Are you saying that Fonterra has acquired water permits that it is not fully utilising at this site? And are you also saying that Fonterra should be entitled to retain use of the allocation these permits give in the future, despite the allocation status of this zone?**

Question 3

10. At paragraph 4.1 of Mr Butcher's evidence in chief he notes that he has been asked to comment on the economic efficiency and economic activity implications of the Darfield factory being unable to continue, or having to stop production for short periods during times of water restrictions.

11. **The question of clarification is, what is your understanding of the likelihood of the factory having to stop operations during times of water restrictions? What volumes of water does the factory require on a daily basis, and what storage capacity does the factory have?**

QUESTIONS FOR G WILLIS ON BEHALF OF FONTERRA/DAIRY NZ

Question 4

12. At paragraph 3.4 (a) you state that the pCLWRP must "have regard to" the *"Proposed Regional Policy Statement 2012 (now operative)"*
13. **The question of clarification is, why do you say it must be had regard to, rather than given effect to?**

Question 5

14. At your paragraphs 2.1 – 2.3 (c) of your rebuttal evidence you explain why you disagree with the Department of Conservation's planner, Mr Familton's proposal that the sub-regional sections be subservient to the region-wide sections of the pCLWRP.
15. **The question of clarification is, do you agree that the sub-regional chapters should be bound by the content of Table 1 as bottom lines, with the exception that naturally occurring conditions that justify the application of less stringent limits is allowed for?**
16. **Do you agree that bottom line protection of life supporting capacity for example is a matter that should bind the sub-regional chapters?**

QUESTIONS FOR S HAYWARD ON BEHALF OF FONTERRA/DAIRY NZ

Question 6

17. At paragraphs 3.16 to 3.19 you discuss the Table 1 in the context of the NPSFM. At paragraph 3.16 you state that *"because of the changed overlying policy framework, it is not a case where those provisions can simply be "rolled over" without giving them and their content a careful reexamination."*
18. **The question of clarification is, how would the numeric values in Table 1 differ in your opinion, if they were developed under a NPSFM framework?**

Question 7

19. At paragraph 3.19 you suggest that determining the "overall" quality of fresh water within a spatial management unit (e.g. catchment of allocation zone) can be assessed by looking at the "average" conditions of its waterways in reference to the criteria set out in Table 1.
20. **The question of clarification is, if using an averaging approach, wouldn't that result in allowing for exceedances of the water quality parameters resulting in adverse effects on particular instream values?**

Question 8

21. At your paragraph 3.19 you state that it is desirable that the sub-regional chapters are able to review and refine the numeric criteria as appropriate for the water bodies in that sub region.
22. **The question of clarification is, do you agree that the sub-regional chapters should be bound by the content of Table 1 as bottom lines, with the exception that naturally occurring**

conditions that justify the application of less stringent limits is allowed for? Are the "refinements" you refer to bound by the requirement that they must not breach those bottom lines?

Question 9

23. At paragraph 3.1 of your rebuttal evidence you note your opinion that measures such as pH and nutrient concentrations are not appropriate as water quality outcomes or objectives.
24. Schedule 5 in the pCLWRP¹ sets water quality standards that are cross referenced in Policy 4.10 (e) and rules 5.72 and 5.77 and applies only to point source discharges. The table in Schedule 5 entitled "Water quality standards for waters not classified as Natural" contains standards for pH, E.coli, DIN, DRP and clarity. These parameters are affected by non-point source discharges as well, and can be the result of cumulative effects.
25. **The question of clarification is, if ECan is to measure cumulative effects of non-point source discharges against a target or objective for that river, don't those types of parameters need to be in Table 1a rather than just in Schedule 5? Is there any other provision in the plan that includes these parameters for the measuring of cumulative effects of non-point source discharges? If not, how could plan achievement in respect of these cumulative effects be measured?**

¹ pCLWRP page 16-9

26. If algal biomass and cover are outcomes in Table 1a, how will these outcomes be met if there is not associated nutrient limits set in Table 1a to meet these outcomes?

DATED this 11th day of March 2013



Maree Baker-Galloway

Counsel for Fish and Game