

Tabled at Hearing on 3 November 2015

under: the Resource Management Act 1991

in the matter of: Proposed Plan Change 3 to the Canterbury Land and Water Regional Plan - Section 15 - Waitaki and South Coastal Canterbury.

and: **Fonterra Co-operative Group Limited**

Dairy NZ Limited

(*'farming evidence'*)

and: **Fonterra Co-operative Group Limited**

(*'processing evidence'*)

Memorandum of counsel – in relation to appearance at hearing

Dated: 2 November 2015

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**CHAPMAN
TRIPP** 

MEMORANDUM OF COUNSEL

May it please the Hearing Panel:

Introduction

- 1 This memorandum of counsel is prepared in relation to the submissions and further submissions by:
 - 1.1 Fonterra Co-operative Group Limited (*Fonterra*) and DairyNZ Limited (*DairyNZ*) in relation to 'farming issues'; and
 - 1.2 Fonterra in relation to 'processing issues',

as they relate to proposed plan change 3 (*PC3*) to the Canterbury Land and Water Regional Plan.
- 2 Fonterra and DairyNZ (in their respective capacities outlined above) are due to present to the Hearing Panel on 6 November 2015.
- 3 The purpose of this memorandum is to seek leave (to the extent that such leave is required) for certain witnesses to be excused from attending the hearing.

Farming evidence

- 4 Fonterra and DairyNZ are calling evidence that relates to *inter alia* nutrient management and water quality in the South Canterbury Coastal Area.
- 5 This includes expert evidence from:
 - 5.1 Mr Mark Neal (farm systems and nutrients);
 - 5.2 Mr Justin Kitto (water quality); and
 - 5.3 Mr Gerard Willis (planning)
- 6 It also includes two very small statements that can be best referred to as 'company evidence'. These are the small statements of Ms Sue Ruston (Fonterra) and Dr Mike Scarsbrook (DairyNZ).
- 7 Neither company statement deals with any contentious issue and it is anticipated that hearing (in person) from the relevant witnesses will not be of any material assistance to the overall determination of the issues in the proceeding.
- 8 On the above basis, Fonterra and DairyNZ respectfully seek that Dr Scarsbrook and Ms Ruston be excused from appearing at the

hearing (noting in any event that Ms Ruston would not be available for the time scheduled).

Processing evidence

- 9 Fonterra was happy with the 40 tonne load provided for "*Milk processing wastewater*" for the Waihao-Wainono area in the notified version of Table 15(o) - and much of its evidence has been focused on simply supporting that load (as it relates to its Studholme processing site).
- 10 Following the provision of evidence by other submitters (and the section 42A Officers Report) it appears that no other submitter is seeking changes to the load as set out (or challenging, for example, the economic value of Fonterra's processing operations as it more generally relates to the ongoing provision of a 40 tonne load from the Waihao-Wainono area in Table 15(o)).
- 11 On that basis (and in the interests of an overall efficient hearing process), Fonterra respectfully suggests that there is likely to be limited value in the Hearing Panel hearing from some of the Fonterra witnesses (some of which have obviously provided relatively lengthy and technical evidence in relation to the not disputed Table 15(o) load).
- 12 Accordingly, unless the Hearing Panel has specific questions, Fonterra respectfully seeks that the following witnesses be excused from appearing at the hearing:
 - 12.1 Mr Robert Potts (existing and future processing load from the Studholme site);
 - 12.2 Mr Mike Copeland (economic value of Fonterra's processing operations); and
 - 12.3 Mr Peter Callander (who has only provided a very small brief in relation to non-consumptive water use and transfers (which also peripherally relates to farming)).
- 13 Fonterra is still seeking to have Mr Ian Goldschmidt (company and overview of technical issues) and Mr Gerard Willis (planning) attend the hearing.
- 14 For completeness it is noted that Mr Goldschmidt is generally across the technical issues and should be in a position to answer any general questions that Panel may have in respect of them. Mr Willis' evidence also briefly discusses the appropriateness of the load in Table 15(o) and deals with the other issues raised by Fonterra in relation to its processing interests.

Conclusion

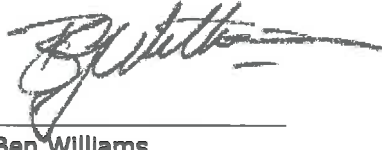
15 For the reasons set out, Fonterra respectfully seeks (unless the Hearing Panel considers it would still benefit from hearing from the relevant witnesses) that the evidence of:

15.1 Dr Scarsbrook and Ms Ruston (as it relates to the Fonterra/DairyNZ farming case); and

15.2 Mr Potts, Mr Copeland and Mr Callander (as it relates to the Fonterra processing case),

be taken as read (and that they be excused from attending the hearing).

Dated 2 November 2015



Ben Williams

Counsel for Fonterra Co-operative Group Limited
and for Dairy NZ Limited