

**Before the**

**CANTERBURY REGIONAL COUNCIL**

**Under the**

Resource Management Act 1991

**In the matter**

of an application by **OCEANIA DAIRY LIMITED** for the resource consents necessary to construct and operate an ocean outfall to discharge treated wastewater from the Oceania Dairy processing plant at Glenavy.

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**CLOSING LEGAL SUBMISSIONS FOR THE APPLICANT**

**7th August 2020**

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## **INTRODUCTION**

- 1 These closing submissions will address:
  - 1.1 the outstanding issues raised by the Council in the further report prepared by Kelly Walker and circulated on Thursday 23rd July 2020;
  - 1.2 the five core themes that emerged following the evidence of the submitters, which I indicated in my oral closing comments;
  - 1.3 other relevant matters raised during the hearing; and
  - 1.4 commentary on the final version of proposed conditions from the Applicant, which are included with these submissions.

## **THE FURTHER S42A REPORT FOR THE COUNCIL.**

- 2 The effect of the further report was that there are two outstanding issues, consistent with the original s42A report, being:
  - 2.1 Remaining issues of water quality;
  - 2.2 The position of conflict on cultural issues.
- 3 The conclusions of the report were that Council's position was unchanged that the consent should be declined.

### **Remaining issues of water quality**

- 4 The nature of the further report as expressed verbally was that the Applicant had brought nothing further to the hearing to ameliorate the water quality effects of the discharge.
- 5 Firstly, on the evidence of Dr Savage, this methodology of a membrane bioreactor together with UV disinfection:
  - 5.1 Surpassed the water quality parameters of any other form of discharge from a dairy processing facility of the vast majority Dr Savage has worked on. Only Fonterra Stirling (which discharges to the Clutha River) implements the same system, and the requirements of the proposed conditions for this

consent impose a tightly controlled treatment and monitoring requirements;  
and

5.2 Set a higher benchmark because of the dual systems available.

6 Accordingly, it is submitted that the Applicant is being portrayed as unresponsive to submissions, because it has introduced a “gold standard” from the initial plant design. With hindsight, holding a form of treatment back, then proposing this design at hearing would have satisfied the Council that the Applicant had recognised that improved systems of treatment or measurement were available to it.

7 Secondly it is not the case that the Applicant has not recommended any changes since the application was lodged. The water quality caucusing did result in amended, more stringent, water quality standards at point of discharge being met. These are listed as follows:

7.1 The change from *median* water quality parameters to *mean*. This sets a higher standard than other consents in the Canterbury Bight. It results in “outlier spikes” counting towards the rolling average. Subject to this change, it was agreed by all water quality experts that the specific controls through wording of the water quality conditions were appropriate and met the requirements for practicality and certainty;

7.2 The addition of a post- treatment UV disinfection system was a further response – particularly to meet iwi and ECan concerns about pathogens;

7.3 The addition of pathogen monitoring through consent conditions;

7.4 the decision to implement constant on-line monitoring of the bioreactor of key indicators, and automated dosing to achieve the highest level of treatment consistency (allowed the applicant to move from *median* to *mean* water quality parameters) together with independent composite sampling for the purposes of reporting to ECan.

8 Ecological wording for surveys was also agreed between Ms Coates and Dr Bolton-Ritchie at the hearing, and those changes have been included in the consent conditions included with these submissions.

9 Nevertheless, Ms Walker continued to recommend a decline of the consent. This appears to be on the basis that allowing any discharge which results in more nutrients

being directly discharged (following treatment) into the ocean, could not be supported. The primary question, however, should be whether the effects at the edge of the small as possible mixing zone, are less than minor or of negligible effect.

*Is ECan's position on water quality supported by the plan and the higher order documents?*

- 10 In my submission, the answer is no.
- 11 At a macro level, the uncontested evidence was that Oceania has increasing demand at its site, from a relatively stable pool of available milk. That milk is going to be processed somewhere, likely either Fonterra Studholme or the Oceania site, and so discharges of wastewater will be made at some point into the Pacific Ocean. A discharge from Oceania, subject to stringent water quality outcomes, is an immeasurable improvement on that milk being processed elsewhere.
- 12 More importantly, at a plan level, both the Canterbury Regional Coastal Environment Plan (**CRCEP**) and the New Zealand Coastal Policy Statement (**NZCPS**) are enabling of discharge provided significant adverse effects are avoided<sup>1</sup>.
- 13 The CRCEP also provides clarification about the mixing zone, which I took you through in my opening submissions. It remains ODL's position that the proposed mixing zone for this proposal is the smallest necessary, in light of the regional guidance. That appears to be accepted by ECan and other submitters, who did not raise concerns with the size of the mixing zone. The evidence presented to you establishes that there are no significant effects arising beyond the mixing zone, and the only outstanding issue of water quality appears to be a personal point of principle of Dr Bolton-Ritchie that any further discharge into the marine environment is to be opposed. Dr Wilson outlined to you that, in his view, the contribution was so small that it would not contribute to algal bloom development off the Canterbury coast.
- 14 In my submission, the approach from ECan is incorrect, and is inconsistent with the enabling policies of the NZCPS and the CRCEP. ECan appears to be applying the "avoid" test to this application, which only applies to discharges with significant adverse effects beyond the mixing zone.
- 15 The issue of precedent was traversed briefly in openings, and it is relevant to mention again here. The Applicant accepts that this is a fully discretionary activity, and so should be assessed on its merits. However, in the absence of cumulative effects, the additional water quality treatment, and tighter assessment criteria are relevant for comparison

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<sup>1</sup> Policy 23 of the NZCPS and Objective 6.1 of the CRCEP

against other recent decisions, particularly the Fonterra Studholme decision. We understand from the s42A report and decision in relation to that application that Dr Bolton-Ritchie was the water quality expert for the Council, and these issues of any discharge into the coastal marine area being opposed is significantly different from her position in the Fonterra Studholme application. There appears to be no reason to treat this application, with better treatment, differently.

*ECan's position on Cultural issues*

- 16 The starting point for this section is ECan's assertion in speaking to its closing comments that there is conflict in relation to cultural issues on the processing of this consent.
- 17 The Applicant's position is that, although there is no agreed position with iwi, there is also no conflict in terms of the processing of consent.
- 18 It is common ground that the hearing of this application must have regard to the relevant iwi management plans. That has occurred through a variety of "threads" stemming from the application itself, the Cultural Impact Assessment, and the fact that iwi (Te Runanga o Arowhenua, Te Runanga o Waihao, and Te Runanga o Ngāi Tahu, collectively referred to as **Ngāi Tahu** in these submissions) have presented evidence and legal submissions at the hearing. Through all of the witnesses cumulatively and the questions and responses given to Commissioners' questions, it is beyond doubt that regard has been had to the iwi management plans. Ms Walker also provided evidence in her further report as to the consideration of iwi management plans in the formation of Regional Policy Statements and Regional Plans. It is clear from her evidence that the two earlier iwi management plans would have been "taken into account", as required by the Act, when those documents were prepared.
- 19 However, ECan's position is that it maintains its position that there continues to be conflict (in that cultural effects have not been mitigated by consent conditions) and that on this aspect the position to decline consent is retained.
- 20 The applicant's position is best expressed as follows:
- 20.1 It agrees with the view presented by Ms Hall that the nature of an Iwi Management Plan is that it is not based on resource management principles but reflects a "statement of desire"<sup>2</sup>;

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<sup>2</sup> Oral response of Kylie Hall to question from Commission Christmas

- 20.2 Given the position that the iwi management plans variously suggest that “all discharges should cease” it is not the legal position that the iwi management plan can effectively impose a higher duty on the Commissioners than the NZCPS and the CRCEP. The 2019 Iwi Management Plan, written after the NZCPS, does not change the enabling provisions of the NZCPS;
- 20.3 Nor does an iwi management plan create a mandate which Commissioners must follow. In my submission that is the “error” which the ECan officer is making by continuing to assert that there is an inherent conflict on cultural issues, in the processing of consent;
- 20.4 In effect, it is submitted that the ECan position is using the issue of cultural issues as a veto. The legality of this approach was traversed fully in opening submissions.

*Conditions proposed to address iwi concerns*

- 21 I note that Ms Walker considers<sup>3</sup> that a consent condition which controls how water will only be discharged to water when it is not practicable to discharge to land would assist in meeting Ngāi Tahu concerns. A consent condition has been proposed by the Applicant on this issue.
- 22 The remaining three changes proposed to consent conditions by Ms Robilliard, and referenced by Ms Walker can be addressed as follows:
- 22.1 On the issue raised of further wastewater treatment, the evidence, as explained above in relation to Ms Walker’s issue, is that the wastewater is being treated to the highest standard for wastewater. The nature of proposed conditions covering use of the ocean outfall, is in effect, giving preference to land based discharge, consistent with the Ngāi Tahu position – at times when land based discharge can absorb nutrient levels.
- 22.2 The discharge volume sought has been explained in evidence, in that it allows certainty and expansion. All evidence prepared has been on the basis of the full discharge. There is no evidence before Commissioners to explain what the effects would be of a reduced quantity because, on the evidence of the Applicant, such a reduction is not necessary;

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<sup>3</sup> At paragraph 26 of her supplementary report

22.3 The issue of duration of consent was traversed thoroughly in my opening submissions. I reiterate that this is a major infrastructure project, with a review condition that contemplates requiring the Best Practicable Option, and so a shortened consent duration is not appropriate.

23 Based on the above, it is my submission that Oceania has addressed all relevant matters raised by iwi, and effects on cultural values have been adequately mitigated by the consent conditions proposed.

*The pathway to process cultural issues on this application*

24 On the basis that the iwi management plan does not create a higher order mandate, cultural issues are to be assessed as part of the section 104 evaluation.

25 Ms Walker's position for ECan is that the conditions do not mitigate the cultural effects, or the treatment of wastewater prior to discharge. For the reasons outlined above, I disagree with this conclusion.

26 In your section 104 evaluation, there is no special treatment accorded to the weighing of cultural issues. It is subject to the same testing and verification as any evidence. This testing is particularly the case where the submissions by iwi go beyond that contemplated by the NZCPS and the CRCEP.

27 The nature of the submissions presented on cultural and community values and the iwi management plans have a very high emphasis on water quality as being the element protecting overall iwi and community values. This translates further to ensuring human health is protected at all levels, and mahinga kai areas are not affected by the grant of consent. This application meets overall water quality on several levels. Firstly, through the high level of treatment proposed, and secondly, in a holistic sense, by the dual system of discharge.

28 It is submitted that water quality and issues of overall treatment of wastewater at ODL have been comprehensively addressed in evidence for the Applicant and the suite of proposed conditions.

29 Through questions from Commissioners<sup>4</sup> the significant sites for tangata whenua were confirmed along the length of the coastline. Other sites were identified on the landward side of the coastline which are not relevant to these proceedings. The closest sites to this application are at the Waitaki Mouth to the south and the Mataitai Reserves area

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<sup>4</sup> Commissioner Christmas to Mr King

which is specifically identified 15 km to the north at the Waihao Box and Wainono Lagoon.

- 30 It is my submission that the evidence is very clear that the significant sites, as identified by Mr King, will not be impacted by this application.

## **FIVE CORE THEMES**

### **Theme 1 –Definition of Site**

- 31 This application is based on a specific site. The site for the point of discharge, as defined by the application, is in the coastal hazard zone and CMA area directly at the end of Archibald Road<sup>5</sup>.
- 32 The site is defined in the marine environment as:
- 32.1 A point of discharge 350 metres off the coast; and
  - 32.2 A reasonable mixing zone comprising a 50-metre radius from point of discharge. Physically this is defined in Figure 4.3 of the application.
- 33 The outer boundaries of the site are further defined by control/sentinel sites 1000 metres to the north and south from the point of discharge and 600 metres to the east of the point of discharge. Those co-ordinates (fixed by GPS) form the very outer edge of the site, as it applies to CRC201194.
- 34 Beyond the point of discharge, the evaluation should be to determine where the effects of the discharge become less than minor. That point has been fixed at a distance of 50 m (i.e. the edge of the mixing zone) where worst case dilution is at 1:300.
- 35 The reference to control sites is then safeguarding your determination because it sets up verification that the testing and modelling based on the edge of the mixing zone is achieving predicted dilution and detection outcomes. To determine that there is an effect at a point up to 14km beyond the control point, would in my submission, require evidence of a scientific nature rather than a bare statement or feeling, no matter how profoundly held. That view has been emulated in other consent decisions starting with the *Shirley Primary*<sup>6</sup> decision.

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<sup>5</sup> See, for example, Figure 1.4 of the Application. Also see images included with proposed consent conditions outlining location of the outfall.

<sup>6</sup> *Shirley Primary School v Christchurch City Council [1999] NZRMA 66*



36 It is submitted that moving to the edge of the Matatai Reserves to the north or south to the mouth of the Waitaki River, the effects of this application are at the stage of being beyond scientific analysis because of the impact of non-point source discharges of Nitrogen and Phosphorus from the land, and the contribution from river discharges to the CMA.

37 In the course of submissions, it has emerged that:

37.1 The site has been widely interpreted to include all of the discharge sites further north for the purposes of assessing the cumulative effects up to Clandeboye;

37.2 The whole of the coastline contained within the Waitaki Iwi Management Plan; and

37.3 Even in a narrower context the whole of the coastline between the Waitaki Mouth and the Wainono Lagoon.

38 To that, I respond that the Applicant is entitled to restrict its choice of site in the application and to reference that in conditions of consent.

39 This application is a resource consent process. It is acknowledged that in this hearing submitters have variously raised issues relating to water quality and water volumes in various streams and tributaries in the Waitaki Catchment.

40 Issues have also been traversed relating to coastal management generally. Those issues, while important to all submitters, and the applicant, are properly dealt with at a plan change stage.

## **Theme 2 – The Nature of the Discharge**

41 Referencing Dr Savage's evidence, other coastal discharges occur after a single step DAF treatment – with some incorporating biological treatment. By comparison this application consists of four layers of treatment being:

41.1 The DAF treatment;

41.2 Biological treatment;

41.3 Biofiltration; and

41.4 UV disinfection.

42 Various submitters have made the presumption that discharge to the marine environment is to enable “a lesser standard of treatment to be applied” with a direct industrial discharge into the coast marine area. On the evidence that is not the case. This misunderstanding in the nature of the application has influenced the evidence and in terms of the description of both effects on cultural values and the ability of the discharge to meet quality parameters.

**Theme 3 – Cumulative Effects Associated with the Discharge**

43 Cumulative effects are a relevant consideration in terms of a discretionary use consent, and your 104 evaluation.

44 However, they must be more than simply a claim of cumulative effects.

45 In my submission, a proper assessment of any cumulative effects will occur:

45.1 Within the mixing zone (and at its outer limits); and

45.2 To the outer boundaries of the control sites.

46 However beyond that point, any assessment of cumulative effects must be approached with care to eliminate considerations that result from the general contributions from agriculture to the marine environment. They must also be identifiable with a degree of precision. In this regard the Applicant’s evidence is that on the water quality and ecological effects, there will be no cumulative effect – and especially no measurable cumulative effect at the closest points of significance to iwi.

47 On the evidence relating to neighbours, the evidence is that the burial of the line will be neutral on overall coastal and gully erosion processes. Fisheries values for neighbours on the ecology evidence would not lead to any change of habitat, and particularly so outside the reasonable mixing zone.

48 The decision of *Maungaharu-Tangitu Trust v Hawkes Bay Regional Council*<sup>7</sup> provides guidance to you on assessment of unquantified effects as follows:

*While the opposition was based on a view that a discharge contributes to the deterioration in the quality of Tangitu as a fishery, the court was of the opinion that this was not the case because the scientific evidence did not support this*

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<sup>7</sup> [2016 NZENV 232]

*view. When discussing the effect on cultural relationships, it was also concluded here, that while they appreciate the connection with kai moana, the scientific evidence overwhelmingly establishes that the discharge does not contribute to the deterioration of the fishery in any detectable way. Concern about negative effects on mauri was also disregarded due to the overwhelming scientific evidence proving that considered to be minor, less than minor or negligible inside or outside of the mixing zone.*

49 And at [217]

*In this particular case there is a conflict between the scientific evidence and the cultural values which the Trust has identified....[218] The scientific evidence also establishes that any adverse bio-physical effects of the proposed discharge will be no more than minor (at worst)... and therefore, Safeguards the life supporting capacity of Tangitu and its ecosystems due to the absence of any more than minor adverse effects at worst. None of the identified effects impact on the capacity of Tangitu to support marine ecosystems providing kai moana*

50 It is submitted that these quotations are helpful in defining your assessment. The facts surrounding this case were summarised in my opening submissions<sup>8</sup>.

#### **Theme 4 – Adaptive Management**

51 In the opening submissions for the iwi, a focus was placed on the option of adaptive management in relation to this application.

52 It is submitted that adaptive management is not appropriate in this situation for the following reasons:

52.1 As a matter of law, adaptive management is generally applied to 'greenfield' developments where the science is uncertain and the effects on the environment from the activity cannot be ascertained. With respect in this particular application the levels of treatment are well known;

52.2 The discharge is already occurring at the dairy processing plant and its constituent elements are well known;

52.3 The treatment technology is well proven and thus the level of improvement in terms of the discharge parameters is already known;

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<sup>8</sup> From paragraph [23.6]

52.4 The parameters fixed by conditions are certain and have not been contested by any of the parties during the course of this hearing.

53 Accordingly, this is a case where fixing of water quality parameters and reporting, is preferred over any adaptive management regime.

#### **Theme 5 - The Nature of the Planning Assessment**

54 The nature of a planning assessment requires impartiality in accordance with Code of Conduct requirements.

55 The s42A report, prepared by Ms Walker, contained a thorough assessment of all relevant planning documents, **apart from** the Iwi Management Plans. Ms Singh assessed the Iwi Management Plans in her evidence, particularly in the context of the NZCPS.

56 On that basis, it is my submission that the planning assessment undertaken by Ms Singh and Ms Walker was robust, and considered all relevant requirements (including an assessment of the evidence against the planning documents).

57 In contrast, the evidence of Ms Walker for Ngāi Tahu was restricted to those matters which supported the Ngāi Tahu case. In particular, she failed to analyse and comment on Policy 23 of the NZCPS, instead giving preference to policies which, in a vacuum, seem to support a decline of consent. This has resulted in a planning assessment which is unbalanced, and, in my submission, of significantly less weight than the assessments of Ms Walker and Ms Singh.

#### **OTHER RELEVANT ISSUES**

##### **Consideration of alternatives**

58 We agree with the position of the s42A report that alternatives were adequately addressed in both the AEE and evidence for the Applicant. However, the legal submissions for Ngāi Tahu referred to several cases that addressed how cultural issues should be addressed by decision makers, particularly in relation to the consideration of alternatives.

59 The Court in *Mahuta*<sup>9</sup> was addressing an application by Anchor Products, to discharge wastewater from its dairy processing “mega-site” into the Waikato River. Submissions for Ngāi Tahu at the Oceania hearing referred to the Environment Court finding in *Mahuta*

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<sup>9</sup> *Robert Te Kotahi Mahuta and Others v Waikato Regional Council* Decision No A91/98.

that “all industries should be expected to take a share in reducing the total load of discharged nutrients”. There are two relevant considerations that fall out of this comment:

59.1 The court in *Mahuta* was concerned with a discharge into a receiving water body that was already under a great deal of stress. The Waikato River is subject to numerous industrial discharges, as well as non-point source discharges, which contribute to a degraded water quality. Cumulative effects were a very real consideration here; and

59.2 The Ngāi Tahu submissions appear to disregard that the proposed ODL outfall is already, in my submission, going beyond the norm in terms of proposing to treat wastewater to a very high level.

60 On the basis of the above, the ODL proposal can meet the ‘test’ that Ngāi Tahu indicates was imposed by the Court in *Mahuta*. ODL is proposing a treatment of wastewater that ensures the ‘pristine’ nature of the water quality beyond the mixing zone is retained, even when considered against cumulative effects of other outfalls and non-point source discharges.

61 Ngāi Tahu then referred to *Mokau Ki Runga Regional Management Committee v Waitomo District Council*<sup>10</sup> as an example where alternatives suggested by iwi had formed part of the consideration of alternatives. ODL understands that the discharge to land is preferred by iwi (although we note that the Iwi Management Plans still seek the removal of all land discharges). It is my submission that the alternative of land discharge has been fully traversed in evidence, and indeed was preferred by ODL if it was workable. However, due to the year-round discharge of wastewater from the site, expanding on the discharge to land was considered to be too problematic, particularly when considered against the concerns from others in the community about the perception of bad irrigation practice. Both Wick and Mr Murphy in their oral submissions concurred that finding additional land within the district to support an increased land discharge would be very unlikely. On that basis, the alternative that appeared to be preferred by iwi was thoroughly considered by ODL. I am unaware of any other alternatives proposed by iwi.

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<sup>10</sup> [2010] NZEnvC 437

### **Utilities as a permitted activity**

- 62 Commissioner Rogers questioned the permitted activity status of the pipeline, under the Waimate District Plan. Written confirmation from the Waimate District Council planning team has been provided with these submissions (marked “A”), however in summary:
- 62.1 The definition of “*utility*” includes “the storage, treatment, conveyance and disposal of water, sewage and stormwater” and “the storage and disposal of waste”. The definition also notes that a utility may be privately owned and may serve specific properties;
  - 62.2 Rule 1.5 of Section 11 – Utilities states that below ground networks for the conveyance and drainage of water, stormwater or sewage is permitted, subject to conditions which this proposal meets; and
  - 62.3 The Waimate District Plan gives preference to the Utility rules over any other zone rules, unless otherwise stated. There is nothing in the rural zone rules which would indicate that the Utility rules are not intended to apply.

### **CONDITIONS**

- 63 Included with these submissions is a revised version of consent conditions, following the evidence of submitters and Council at the hearing. Where changes have been made beyond what was previously circulated to Commissioners on Tuesday 21 July (second day of the hearing), they are highlighted, with reasons given for the changes in comments, where appropriate. However, there remain two consent conditions which merit further discussion. I have addressed these below.

#### **A dual discharge system: Proposed Condition 2A**

- 64 The Applicant has consistently (in the application and evidence) maintained that the ocean outfall will enhance the existing wastewater discharge system, rather than completely replace the application to land. In situations where a discharge to land is less ideal (for example saturated soil, lower soil temperature or forecast for significant rainfall), the ocean outfall provides an alternative with better environmental outcomes. In addition, if the volume of wastewater to be discharged from the factory is to be increased, it may be appropriate for the land discharge and the ocean outfall to be working in conjunction (as too much wastewater is forecast for the land discharge).
- 65 As part of the proposed consent conditions, the Applicant has proffered a consent condition that reflects this position of the ocean outfall being part of a dual discharge system. The condition as worded retains the land discharge as the preferred option (in line with community and iwi expectations), but allows ODL to ‘switch’ to ocean outfall

based on consideration of relevant factors (such as soil temperature and saturation, again, in line with community expectations). The consent condition as worded ensures that the ocean outfall is not 'switched on' once commissioned, and never turned off.

- 66 The Applicant sought feedback from ECan in relation to the proposed wording of condition 2A. Following that consultation, the Applicant agreed to changes from the proposed version, which clarified some of the matters for consideration of whether the discharge to land is "not practicable", and including a requirement to keep records of when the ocean outfall is used, to assist the ECan compliance team. On that basis, the consent condition 2A is agreed between the Applicant and ECan as appropriate, and reflective of the discussions held at the hearing.

### **Turbidity / sediment discharge**

- 67 The applicant had proposed to delete condition 10 of CRC201190, which relates to turbidity monitoring. This proposed deletion was on the basis of the evidence about the turbidity of the existing environment, particularly that of Ms Coates who addressed the difficulties divers had (visibility of 0.5m on a 'calm' day). Dr Bolton-Ritchie raised concerns with the removal of this condition, which we understand to be on two grounds:

67.1 Lack of certainty about the timeframes for construction (and therefore length of potential sediment discharge); and

67.2 Disagreement about the turbid conditions, proposing that the ocean looks turbid for the first 50 metres or so, and then appears clear Dr Bolton-Ritchie's conclusions stemmed from her many observations as she "drove" along the coast. The applicant does not accept that her driving observations relate to the "site" of this consent.

- 68 At the hearing, the Applicant addressed the issues of timeframes for construction. The key issue is that construction is driven by two imperatives:

68.1 Safety and weather factors; and

68.2 Financial factors.

- 69 There is a real financial incentive for the Applicant to get the construction completed as quickly as possible. There is no intention to have the trench sitting dug, but the pipeline not installed, for weeks at a time.

70 The second issue comes down to a preference of evidence. In my submission, the evidence of Ms Coates, who had divers reporting the actual conditions and visibility 8 metres underwater at the proposed locations of discharge is to be preferred over Dr Bolton-Ritchie's visual assessment from the road.

71 On that basis, the Applicant still proposes that the condition be deleted, as it is not protecting an environmental effect, due to the natural turbidity of the water. We note that further controls on sediment are also required under the Construction Management Plan required by that consent. On that basis, I submit that it is appropriate the condition be deleted. However, the Applicant considers that the condition as proposed is workable. If the Commissioners considered that a turbidity condition was required, on the evidence, the Applicant considers condition 10 could be reinstated.

## **CONCLUSION**

72 For the reasons outlined above, and in the evidence presented at the hearing, it is my submission that the consents should be granted, subject to the conditions proposed by the Applicant. In particular, I submit that the granting of the consents:

72.1 Is consistent with the relevant planning documents;

72.2 Will not result in adverse environmental effects that are more than minor;  
and

72.3 will result in an improved environmental result than the discharge solely to land as it currently exists.



E J Chapman / J A Robinson  
Solicitor for Oceania Dairy Limited