

Before Hearing Commissioners  
at Canterbury Regional Council

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*under:* the Resource Management Act 1991

*in the matter of:* proposed Plan Change 7 to the Canterbury Land and  
Water Regional Plan

*and:* **Silver Fern Farms Limited**  
*Submitter 468*

Memorandum of counsel on behalf of Silver Fern Farms Limited

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Dated: 27 November 2020

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**MEMORANDUM OF COUNSEL FOR SILVER FERN FARMS LIMITED****MAY IT PLEASE THE COMMISSIONERS**

- 1 This memorandum of counsel is filed on behalf Silver Fern Farms Limited (*Silver Fern Farms*), who submitted on proposed Plan Change 7 to the Canterbury Land and Water Regional plan (PC7) (submitter number 468).
- 2 Silver Fern Farms' submission largely related to the groundwater allocation provisions within the Orari-Temuka-Opihi-Pareora (OTOP) sub-region, which are affected by Part B of PC7, and sought that Silver Fern Farms be heard in support of its submission.
- 3 Silver Fern Farms is aware that there have been considerable developments in respect of groundwater allocation accounting since submissions were filed on PC7.
- 4 In light of these developments, Silver Fern Farms respectfully seeks to not appear at its scheduled hearing slot on Thursday 3 December, but wishes to maintain its submission in its entirety, and provides a number of further comments for the Commissioners' consideration below.

**Silver Fern Farms position in light of new groundwater information**

- 5 As Silver Fern Farms' original submission notes, it holds a range of resource consents necessary for the operation of its Pareora Site, including consents for take and use groundwater for industrial purposes and the irrigation of pasture. These groundwater abstracts are from deep bores, which would not be considered to be stream depleting.
- 6 The proposed groundwater allocation limit in the notified PC7 for the Pareora GAZ in Table 14(zb) was 7.19 million m<sup>3</sup>/y, a significant reduction from the current allocation of 22.95 million m<sup>3</sup>/y.
- 7 The memorandum of counsel for Canterbury Regional Council dated 23 September 2020 suggests that the current groundwater allocation is more in the order of 10.92 million m<sup>3</sup>/y, therefore the GAZ is still over-allocated, but not to the extent previously expected.
- 8 Silver Fern Farms understands that in light of the new information about the extent of allocation, the Council is proposing, or at least considering, removing the provision of a 'T' allocation block in favour of a single block. In the Pareora GAZ, which is still considered over-allocated, Silver Fern Farms remains concerned that there is a lack of direction in PC7 regarding how allocation limits are going to be reached over time, and whether its existing take permits will be able to be replaced on reasonable terms. Noting the evidence of Mr

Willis for Fonterra in this respect,<sup>1</sup> Silver Fern Farms understands that Policy 4.50 would apply, requiring that replacement consents are granted for only 90% of the previously consented rate of take and annual or seasonal volume. If that was the position reached then further thought (potentially extending to future plan reviews) would need to continue to be given to addressing over-allocation over time.

- 9 A 10% reduction in available water for the Silver Fern Farms Pareora site creates a risk of operational constraints and reduced capacity. While a certain level of further efficiency/reduction may be possible, Silver Fern Farms is concerned about the potential effect on its operations of long term reduction requirements of a scale necessary to fully phase out surface and groundwater over-allocation in the Pareora GAZ.
- 10 Consistent with its submission, Silver Fern Farms therefore seeks amendments to Policy 14.4.7 to:
  - 10.1 provide greater certainty regarding the protection for all existing lawfully established groundwater abstractions;
  - 10.2 enable existing lawfully established groundwater abstractions for industrial takes to be replaced on terms that will not limit the operational viability of the likes of the Pareora site; and
  - 10.3 clarify the mechanism through which over-allocation will be phased out.
- 11 Silver Fern Farms also seeks such further, consequential or alternative relief as may be necessary to fully give effect to the relief sought in this submission.

**Ben Williams**

**27 November 2020**

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<sup>1</sup> At paragraph 48.