BEFORE AN INDEPENDENT HEARING PANEL
OF THE WAIKATO REGIONAL COUNCIL

IN THE MATTER OF	the Resource Management Act 1991 (**RMA**)
AND	
IN THE MATTER OF	of the Proposed Waikato Regional Plan Change 1: Waikato and Waipā River Catchments

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STATEMENT OF REBUTTAL EVIDENCE of JAMES BRENT WATSON SINCLAIR ON BEHALF OF WAIKATO REGIONAL COUNCIL AS SUBMITTER

Technical - Block 3

DATED 19 July 2019

Introduction

1. My name is Brent Sinclair. I have been employed by the Waikato Regional Council ("Council") since 1997, and through that period have held various positions of technical and management responsibility within the regulatory part of Council. I currently hold the title of "Manager – Industry and Infrastructure" within the Resource Use Directorate at the Council, a position I have held since 2013. Prior to that time I held the title "Division Manager – Consented Sites" which I held since 2009.

2. I have previously prepared a statement of evidence for Hearing Block 2 and Hearing Block 3. My qualifications and experience are as set out in that evidence.

3. I confirm that I am familiar with the Code of Conduct for Expert Witnesses as set out in the Environment Court Practice Note 2014 and have presented evidence before the Environment Court in relation to resource consent applications. I have read and agree to comply with the Code. Except where I state that I am relying upon the specified evidence or advice of another person, my evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in my evidence.

4. In my evidence to Block 2 of the hearing, I commented on various implementation issues that would likely arise from the Plan requirements, in particular as those relate to the requirement for landowners to obtain resource consent.

5. In his evidence for the Block 3 Hearings, Mr Allen as a representative for the Fonterra Co-Operative Group, makes a number of comments in relation to my Block 2 evidence. My Rebuttal evidence does not address all aspects of Mr Allen's evidence, just those matters that relate to my area of experience.

6. In paragraph 2.4 of Mr Allen's evidence, he refers to *"side agreements made by Council with consent applicants to effectively disregard statutory timeframes"*. Mr Allen appears to have not understood the conversation that took place between myself and the Hearings Panel. There were no "side agreements" and it is important that the record shows that Mr Allen's assertion that statutory timeframes were disregarded is not correct.

7. Most of the farmers who sought consent to authorise their existing take of water to provide for dairy shed washdown and milk cooling agreed to extend the statutory timeframes as

provided for pursuant to s37 of the Resource Management Act. Where such an agreement was not in place, applications were processed as required by the relevant provisions of the Act. Therefore the statutory timeframes have not been disregarded.

8. My comments on this topic in the first instance were simply to highlight that when processing a large volume of consent application likely to be lodged over a short time period, without the agreement of an applicant to extend the timeframes specified under the Act, significant resources would be required to ensure processing occurs within those timeframes.

9. Mr Allen also has confused the context within which the issue of the Horizons Declaration was discussed. Commissioner Robinson asked the question whether the Declaration would likely impact on the consent process and hence the likely time required to process applications lodged under PPC1. My response to that question was that it would, but that any impact would be less of an issue for a controlled activity (CA) status rule than a restricted discretionary activity (RDA) because for an RDA, the assessment process requires a determination whether or not consent should be granted, whereas for a CA that assessment is not required as consent must be granted.

10. In paragraph 2.5 Mr Allen notes that I made no comment on monitoring of the consents granted authorising farm water takes under Variation 6. As I clearly noted, the purpose of my evidence was to address the issue of processing the large numbers of consent applications likely to be received, and not any subsequent monitoring.

11. However, given Mr Allen has raised the issue, and made a number of comments regarding the effectiveness of the monitoring. Again it is appropriate that I respond to ensure the written record is clarified. In short, Mr Allen makes statements that are simply not correct, in particular where he comments that very few farmers have had *"any further contact with the regional council, other than receiving regular invoices for consent administration"*.

12. Council is mindful when developing any compliance monitoring programme that the programme is "fit for purpose" and that resources are appropriately deployed. To that end, Council takes a risk-based approach to compliance monitoring.

13. The consents that authorise the taking of farm water represent a small fraction of the water allocated for use in the Region, and given the volumes allocated to each farmer and the

purpose for the use of the water, there is lower risk of non-compliance that is likely to result in serious impacts.

14. As such, a compliance regime has been established, the costs of which are shared across the consents holders currently set at $60 per annum. When a farmer is monitored and found to be compliant, there are no additional costs.

15. It is not efficient or necessary to monitor every farm water consent every year and to do so would divert finite staff resources away from monitoring higher-risk consented activities and, in my view, impose unreasonable costs onto the consent holder.

16. In order to operate an efficient monitoring programme, Council staff co-ordinate monitoring all activities on a farm, and this will typically mean that compliance with the water take consent is undertaken at the same time monitoring of compliance with effluent rules is undertaken.

17. Council monitoring staff advise me that, as at June 2019 there are 2405 consents issued for the use of farm water and that 1425 of these consents (59%) have been monitored at least once, generally associated with a farm effluent monitoring inspection.

18. Non-compliance rates are low, and where that occurs it generally relates to water take data not being submitted in a timely fashion or calibration of the water meter. Farmers are being reminded of these obligations in a proportionate manner.

19. The last point I raise relates to Mr Allen's conclusion in paragraph 2.6 that Fonterra *"would not consider Variation 6 implementation a success"*. Mr Allen provides no success criteria that he is applying when he makes this statement.

20. As I noted in my response to earlier questions from the Panel, Council's key objective was to ensure all affected farmers did not miss out on the allocation of water available to them so long as they lodged the necessary consent application within the timeframes set out in Variation 6, This was a collective goal of the partners to that project, including Fonterra, and all parties worked collaboratively for that to be achieved.

21. Further, Mr Allen infers that because not all of the consent applications have as yet been processed, this represents a failure of sorts. As I noted clearly in response to questions, these

final applications are typically in catchments where allocation pressures exist and Council is obliged to process applications seeking additional water to that made available for allocation in the Regional Plan in a “first in first served” manner.