

**BEFORE THE HEARING PANEL OF SOUTHLAND REGIONAL COUNCIL**

**In the matter** of sections 88 to 115 of the Resource Management Act 1991

**And**

**In the matter** Applications for resource consents by:

**WORLDWIDE FOUR LIMITED, WORLDWIDE FIVE LIMITED,**  
Applicants

**Next event date**

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**MEMORANDUM OF COUNSEL AS TO APPLICANTS' RESPONSE**

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- 1 This memorandum is filed by way of cover for the Applicants' evidence in reply required by the Panel's minute of 11 October 2019. It follows the provision of evidence on 18 October 2019 by the Applicants and the s42A Officers' response to that on 4 November 2019.
- 2 The information provided in reply consists of a supplementary statement by Dr Freeman, responding to matters raised in the s42A officers' documentation filed on 4 November 2019.
- 3 Dr Freeman's statement provides sufficient responses to the additional matters raised in the s42A officers' materials of 4 November 2019, to demonstrate that the Overseer modelling for these applications (Woldwide 4 Ltd and Woldwide 5 Ltd) is based on a sufficiently correct and reliable "baseline" to allow the Panel to rely on it.
- 4 No legal submissions were filed for the s42A officers. No legal submissions are filed in response to that additional information. The Applicants' right of reply will be exercised at the resumption of the hearing on 18 or 19 November 2019.

Dated 11 November 2019



J M van der Wal  
Solicitor for the Applicants

**BEFORE THE HEARING PANEL OF SOUTHLAND REGIONAL COUNCIL**

**In the matter** of sections 88 to 130 of the Resource Management Act 1991

**And**

**In the matter** Applications for resource consents by:

**WOLDWIDE FOUR LIMITED & WOLDWIDE FIVE  
LIMITED**

Applicants

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**STATEMENT OF EVIDENCE OF MICHAEL CONRAD FREEMAN**

**Response to statement of evidence from reporting officers**

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1 This statement has been prepared to respond to directions issued by the Hearing Commissioners on the 7<sup>th</sup> and 11<sup>th</sup> October 2019 and the Reporting Officers' Statement of Evidence dated 4 November 2019. For ease of reference, I have included the officers' original statements where appropriate. I have divided up this statement into the four specific matters raised by the officers

- a) Additional caucusing questions
- b) Barn slurry, dairyshed effluent and solids
- c) Resource consent conditions

### **Additional Caucusing questions**

2 The additional caucusing questions posed by Ms Grant and Mr Erceg were not reproduced in their statement. However, I provide them below with specific responses below

Question/comment by officers	Response
5. <i>What is going on with the Slurry from WW3 – where has it factually been spread and under what consent?</i>	This matter has been addressed in the evidence and response from Ms Legg for Woldwide One and Woldwide Two in relation to the Horner Block and is not a matter directly relevant to Woldwide Four (WW4) or Woldwide Five (WW5). Apart from the matter that has been addressed earlier - that the WW3 discharge permit provided for effluent to be discharged onto WW5 land but has never been applied to WW5 land.
6. <i>What are the P mitigations for WW4 &amp; WW5 and where will these be occurring?</i>	These have been detailed in Mr Crawford's report. However, we accept that there would be some benefit if these detailed site-specific mitigations are incorporated into the FEMP. This will be done and incorporated into a final suite of proposed conditions which is being prepared and will be circulated on Thursday 14 November 2019.
7. <i>When will the feedpads/stand off pads be operational and where are they located on the properties (2x requests at site visits to view them haven't been responded to).</i>	I understand that the feedpads have been visited previously by Ms Courtenary Guise and Ms Grant. Two feedpads (close to the river) have been occasionally used in recent years and the third feedpad (near the house) has not been used in recent years but requires about three days of work to have it ready. These were described in the application and the two operational feedpads will fully comply with all the permitted activity conditions of Rule 35A of the PSWLP. One will have the boundary fence moved away from the nearby pond before any new use to ensure sufficient separation distance. An aerial photograph is detailed below showing the location of the three feedpads. The officers are welcome to visit the feedpads at any time.



Figure 1 Location of feedpads at Woldwide Five

<p>8. <i>What good management practices are factually in place on the properties currently</i></p>	<p>A range of good management practices is in place on the properties currently. The term “good management practices is not well defined in Southland. The definition in the PSWLP<sup>1</sup> is uncertain because (as has been noted in evidence to the PSWLP appeals) it refers to generic practices (e.g., “undertake riparian planting”) in factsheets on Environment Southland’s website, and as such could be changed without public notice. In my view, this is not consistent with good practice or RMA Schedule 1 Clause 30.</p> <p>Specific good management practices have been described and modelled by Mr Crawford. Overseer assumes a range of ‘good management practices’ such as even application of fertiliser and even application of effluent.</p>
<p>9. <i>Numbers of stock on the ground v what has been modelled, in particular for the 2018/2019 season</i></p>	<p>Mr Crawford has been satisfied that he had sufficient robust information to model the stock numbers for each of the modelled years. He has sighted Fonterra milk production figures, he has visited the properties and seen the stock. In addition, he has satisfied himself that the overall farm system is realistic and stock numbers match feed. I am satisfied that as a qualified and experienced CNMA, Mr Crawford has a high level of assurance that the modelled stock numbers accurately reflect actual stock numbers.</p> <p>If the officers have information that indicates that the modelled stock numbers do not reflect the actual numbers that information should be provided.</p>

### **Barn slurry, dairymshed effluent and solids**

- 3 The statements and concerns expressed by Ms Grant and Mr Erceg appear to be based on a misunderstanding of how the barn slurry effluent will be collected and applied to land. The clear intention is as specified in the applications to have the barn slurry effluent collected and stored in a separate effluent storage facility. The points raised in the officers’ statement are based on the incorrect assertions that: “*The applicant does not propose to store the slurry effluent and dairy shed effluent in separate infrastructure...*” “*...it all originates from a single source so cannot be separated...*”. The original AEE made it reasonably clear that the FDE and wintering barn slurry will be stored in separate systems.
- 4 The AEE states for both WW4 (page 47) and WW5 (page 61) “*All wintering shed effluent is stored for the duration of winter in the new slurry effluent storage facility and*

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<sup>1</sup> “Good management practices Include, but are not limited to, the practices set out in the various Good Management Practices factsheets available on the Southland Regional Council’s webpage.”

*applied to land from October through to May when soil moisture conditions are suitable.”*

### **Resource consent conditions**

- 5 The officer comments highlight a fundamentally different approach to consent conditions. The approach proposed by the applicant is equivalent to the approach taken by Environment Canterbury, Environment Waikato, and the Bay of Plenty Regional Council, namely, to specify farm nutrient loss limits, a methodology to model a farm system and incorporate an assurance/compliance monitoring system to provide the consent authority with certainty. This provides flexibility for farm system changes provided that the targets are complied with while putting an onus on the consent holder to maintain information to provide assurances to the consent holder and the wider community.
- 6 The approach proposed by the officers incorporates an extremely detailed set of operational requirements to ‘lock-in’ what was specified in the application. This would not provide for any significant farming system flexibility and would potentially involve significant compliance monitoring resources that the consent holder would presumably have to fund. Research and innovation in New Zealand and overseas will continue to provide new methods to reduce contaminant losses while maintaining farm productivity. Unnecessarily limiting the farm system would make it difficult to incorporate new beneficial developments.
- 7 A more effective and efficient approach is to specify the key indicators that will provide a high level of assurance that the adverse effects will be as described and considered acceptable. This type of approach, adopted by most regional councils involved in the management of contaminant losses from rural land, provides the consent holder with a degree of operational flexibility while at the same time providing the consent authority with assurance about environmental effects.
- 8 It is useful to compare both approaches with the national guidance on resource consent conditions. *“Good resource consent conditions are fundamental to ensuring actual or potential adverse environmental effects of an activity are appropriately avoided, remedied or mitigated. It is critical that resource consent conditions are drafted carefully to ensure:*
  - *they are within the law*
  - *compliance with the conditions will result in any adverse effects being limited to the extent anticipated by the decision-maker*

- *the consent holder and other parties understand exactly what the requirements are, and*
  - *if necessary, enforcement can be undertaken.”<sup>2</sup>*
- 9 Either approach would be consistent with the above guidance. However, the approach that many other regional councils use and that I recommend has the advantage that provides greater flexibility for the consent holder and places more emphasis on reporting by the consent holder rather than on compliance monitoring by the consent authority.
- 10 Good practice guidelines include the following direction: *”Ensure that each condition is effective and efficient from the perspective of the affected resource, the consent holder, ... is the condition the most cost effective method to achieve the result sought?”<sup>3</sup>*
- 11 I consider that the approach that I have suggested is a more efficient and cost effective way to achieve the same environmental results.
- 12 This suggested approach to resource consent conditions is highly likely to be consistent with what will likely be needed as the Southland Region moves towards developing and implementing “limit setting” under the National Policy Statement Freshwater Management.
- 13 I will provide a fresh suite of proposed conditions on Thursday 14 November 2019 based on the Adams decision which in turn are based on an established suite of Environment Canterbury consent conditions.

### **Riverside LINZ land**

- 14 While not specifically raised as an issue in the officers’ statement, for completeness, I can confirm that I have been instructed to lodge an application to occupy the land marked as “LINZ Lease” in Figure 1 with Land Information New Zealand. That application will be lodged in the next two days. The Rule 20 land use consent application does not explicitly include this land because of a misunderstanding about the area of land subject to the original purchase. Mr Crawford’s modelling has been undertaken on the basis of the paddock plans provided by Woldwide Five. This

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<sup>2</sup> <https://www.qualityplanning.org.nz/node/912>

<sup>3</sup> <https://qualityplanning.org.nz/node/914>



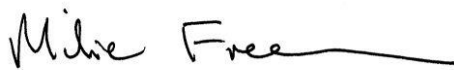
includes the LINZ land. It is also clear that some titled land is now in the bed of the Aparima River.

- 15 In light of this understanding, there would be advantages if the scope of the original application could be extended to include the LINZ Lease land. Therefore, on behalf of the applicant, I request that the commissioners consider extending the scope of the application to include this additional LINZ land as shown in Figure 1, approximately 14 hectares.

### **Baseline and proposed nutrient loss modelling implications**

- 16 There is nothing in the officers' statement or this statement that changes my confidence in the nutrient modelling of either the baseline or the proposed farm systems and my conclusions relating to the reductions in nutrient loss and very small contributions to improving water quality as a consequence of the proposed developments at WW4 and WW5.

Dated: 11 November 2019

A handwritten signature in black ink that reads "Mike Free" followed by a long horizontal flourish.

Michael Conrad Freeman  
Senior Scientist/Planner