

IN THE MATTER of the Resource Management Act 1991 (**RMA**)

AND

IN THE MATTER of an application by Taha Fertilizer Industries Limited for land use consent to store of Ouvea Premix in the former Mataura Paper Mill buildings under s 88 of the RMA

BETWEEN **TAHA FERTILIZER INDUSTRIES LIMITED**
Applicant

AND **GORE DISTRICT COUNCIL**
Consent Authority

**MEMORANDUM OF LEGAL COUNSEL FOR
TAHA FERTILIZER INDUSTRIES LIMITED**

20 May 2015

Counsel Acting

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BARRISTER

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MAY IT PLEASE THE COMMISSIONERS -

INTRODUCTION

1. I write on behalf of Robert Makgill, Counsel acting for Taha Fertilizer Industries Limited (**Taha**).
2. Taha seeks land use consent from Gore District Council (**Council**) to store Ouvea Premix in the former Mataura Paper Mill buildings.
3. The resource consent application hearing was adjourned on 14 May 2015 pending the provision of further information as requested by the Commissioners.
4. This memorandum has been prepared to outline:
 - (a) the supplementary information that Taha will provide to the Commissioners; and
 - (b) an indicative timeline for providing this information, including a timeframe for a technical review of the material testing methodology and additional material testing.
5. I understand this information will be used to develop a timeframe for the processing of the consent application going forward.

SUPPLEMENTARY INFORMATION

6. We propose to provide two sets of information to the Commissioners by:
 - (a) 29 May 2015; and
 - (b) 3 July 2015.
7. The proposed timeframe represents the provision of information that is readily available, compared to information that will require more time to prepare.
8. By **29 May 2015**, we propose to provide a memo to the Commissioners containing the following supplementary information:

- (a) an assessment of flood protection measures that can be permanently installed, including a proposed timeframe for permanent installation;
 - (b) a definitive status of what material is currently stored on site and where it is stored, including:
 - i. a marked-up site layout plan showing the quantities of material and where material is stored;
 - ii. an assessment on whether other material could be permanently removed from the site (e.g. Sulphate of Ammonia and Citric Acid Crystals); and
 - iii. if any movements are proposed as per (ii), an outline of steps taken to instigate this removal, traffic management, proposed consultation and a timeframe;
 - (c) an outline of the process for drafting Material Safety Data Sheets (**MSDS**) and obtaining the Status of Substance (**SoS**) for Ouvea Premix, including independent tests that have been undertaken and the status of other mixes;
 - (d) the correct MSDS for Ouvea Premix and Aluminium Dross, and the full EPA SoS decision document with appendices;
 - (e) the correct street address for buildings;
 - (f) a summary of communications with NZTA;
 - (g) a draft communications plan through the Community Liaison Group; and
 - (h) a detailed timeframe for removal.
9. In addition, we also propose to provide information regarding the company structure and reporting lines relevant to this consent application. Taha has requested that this information be treated as confidential and not circulated.
10. By **3 July 2015**, we propose to provide the remainder of the information requested by the Commissioners, being:

- (a) A fully marked up Site Layout Plan, including location of material, existing flood protection measures and storm water pipes in use or otherwise;
- (b) An updated Environmental Management Plan, including an updated Flood Response Plan, Fire Response Plan and a Traffic Management Plan for product removal;
- (c) Supplementary evidence from the Structural Engineer (Steve MacKnight) regarding:
 - i. Further assessment on the chimney structure; and
 - ii. Further assessment on the building floor;
- (d) Updated Flood Assessment Report and supplementary evidence from Flood Engineer (Ben Fountain) regarding:
 - i. Further comment on the flood impact on each of the buildings in flood events and a recommendations as to the most suitable locations within the buildings for storage;
 - ii. Further comment on the movement of water in the buildings in a flood;
 - iii. Further comment on gravel build up on the Mataura River north of the site and the impacts on the assessment;
 - iv. An assessment of estimated standing times for flood waters; and
 - v. Further comment on how flood waters could be contained and to what degree.
- (e) Updated Hazard Identification and Risk Assessment (**HIRA**) Report and supplementary evidence from Environmental Practitioner (Bruce Clarke) regarding:
 - i. A clear statement on the chemistry of the product;

- ii. A clear statement on Gore District Plan provisions compared to HSNO Regulations regarding material classification;
 - iii. Consent status regarding emissions to air; and
 - iv. Subsequent updates to HIRA Report following updated technical information (including Flood Response Plan, Fire Response Plan and Traffic Management Plan);
- (f) Supplementary planning evidence from the Senior Planner (Bill Watt) regarding:
- i. Proposed consent conditions; and
 - ii. Further consideration and advice on a bond; and
- (g) Supplementary evidence from the Project Manager (Lindsay Buckingham) providing a detailed timeframe for product removal.

ADDITIONAL MATERIAL TESTING

11. The Commissioners have indicated a possibility that they will seek to review the methodology used by Jacobs New Zealand Limited (**Jacobs**) to test the reaction of Ouvea Premix in water.
12. We suggest a timeframe for this additional work as follows:
- (a) Suitability qualified professional engaged as soon as possible to peer review testing methodology;
 - (b) Methodology peer reviewed week starting 1 June 2015;
 - (c) Outcome of peer review communicated to Commissioners and Jacobs week starting 8 June 2015; and
 - (d) Any additional material testing complete by 26 June 2015, to be incorporated into supplementary information provided on 3 July 2015.
13. As requested by the Commissioners, Jacobs has suggested three suitably qualified individuals to carry out the peer review.

DIRECTIONS SOUGHT

14. We seek direction from the Commissioners on whether the proposed timeframe and provision of information is acceptable.
15. We also seek confirmation of the timing and location of a second hearing date in July 2015.

Dated 20th May 2015



T Drewitt

**Environmental Consultant for Taha Fertilizer Industries
Limited**