

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER

applications for resource consents to take and use
water in the Waitaki River Catchments

**MEMORANDUM OF COUNSEL ON BEHALF
OF MACKENZIE WATER RESEARCH LIMITED**

13 NOVEMBER 2009

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MAY IT PLEASE THE COMMISSIONERS:

1. The purpose of this memorandum is to set out the matters requiring further clarification and to propose a process to address these matters.

Matters of clarification

2. In light of the extensive questioning by the Committee of Dr Gamage a number of matters were identified that require further clarification.

3. These matters include:

- Reliability of the data samples.
- Appropriateness of the detection limits.
- Relevance of spikes and return periods.
- How the rainfall data was applied and used.
- Comparison of Burns et al 1999 to the GHD model.
- Explanation of why floods are not important.
- Explanation of the testing of inorganic material.

4. It is evident to MWRL that the above matters cover a range of topics that relate to the expertise of some of the other MWRL experts as well as Dr Gamage.

5. MWRL is also concerned that the fragmenting of the MWRL case (necessitated by circumstances) has meant individual areas have been closely dissected and issues have been raised which require a collective or holistic response.

6. Accordingly, we seek leave to have all of the senior experts (involved in the production and review of the WQS) available for questioning in the form of "hot tubing"¹ on Wednesday 18 November 2009 immediately following the evidence of Dr Mzila. We note that the "hot tubing" process was recently endorsed by Judge Bollard in an article **attached** to this memorandum.

7. We see this as the most efficient and proper way to provide a comprehensive response to matters of clarification. Apart from in relation

to the matters identified in paragraph 2 above, we do not propose to present in advance any written statements beyond what has been tabled. The experts will be present simply to provide a collective and properly comprehensive response to matters that require clarification.

Christian Whata

Counsel for Mackenzie Water Research Limited