

**Briefings and Aides Memoire**  
**Provided to Ministers between 10 August 2013 – 29 August 2013**

This document has been proactively released to supplement the final report of the Government Inquiry into the Whey Protein Concentrate (WPC) contamination incident and the Government's response to that report.

Some information in these documents is withheld in line with the following sections of the Official Information Act (as applicable):


- s.6(a) – prejudice of international relations;
- s.6(c) – prejudice of the maintenance of the law, including investigating offences;
- s.9(2)(a) – to protect the privacy of natural persons;
- s.9(2)(b)(ii) – prejudice of the commercial position of the subject of the information;
- s.9(2)(ba)(i) – protect information which is subject to an obligation of confidence;
- s.9(2)(c) – prejudice the role of the Government Inquiry as a measure to protect health and safety of the public
- s.9(2)(h) – legally privileged information

## **Sensitive: Commercial in Confidence**

Prime Minister and Ministers,

Set out below is the latest update on whey protein concentrate contamination.

### **Narrowing the scope of the recall in New Zealand**

1. MPI is working with Nutricia to narrow the scope of the product recall. In making this decision, MPI has as its primary considerations:
  - Maintaining public health and safety;
  - Ensuring certainty in overseas markets;
  - Relieving the domestic supply situation; and
  - Minimising financial impact on affected companies.
2. The recall currently covers all batches of the Nutricia Karicare Stage 1 infant formula (0-6 months) and all batches of Nutricia Karicare Gold+ Stage 2 follow on formula (as from 6 months).
3. The broad recall was undertaken to ensure that all potentially contaminated product was taken off the shelves, and also to provide clarity for consumers. However, we have now verified that the recalled product includes some manufactured before Nutricia received the contaminated WPC, and some manufactured after the contaminated WPC was all used.
4. 
5. The decision outlined above in para 4 has been made on the basis of information currently available to MPI and the assurances received from Fonterra and Nutricia. If any new information is received which calls into question the technical advice I have received to date, then I would clearly review the situation.
6. The timing of the changes is still being worked through, but is likely to be Monday next week (12 August) if we can pull everything together. We are bringing in extra people tomorrow to work through the logistics with Nutricia, including organising public communications around the changes, liaising with Plunketline and Healthline, and talking with overseas regulators to ensure they understand any implications for their markets.

[Withheld under s.9(2)(h)]

**Operations update - tracing and recall**

7. **Domestic:** Nutricia has provided a revised inventory of its infant formula products last night. AsureQuality, which carries out verification for MPI, now has a very high level of confidence in the location of affected Nutricia product compared with yesterday. Nearly all product is accounted for.
8. **International:** The operations team is providing detailed information to assist with responding to numerous requests from international markets about potentially contaminated products.
9. The tracing and verification work is continuing to achieve clarity in many areas. Yesterday, Fonterra provided a good, clear presentation of traceability of the affected WPC cyphers through their premises in response to questions that had arisen in the data reconciliation audits. However, finalising the tracing and verification work, including getting the data from Fonterra for the carry-over risk assessments at Waitoa, CanPac and Dairy Goat are still live tasks.

10. Our time line for completing those pieces of work is early to mid next week.

**Market access and assurance**

11. Communications from Posts and offshore regulators are beginning to subside, although there are some questions we do not yet have answers for.

12. [Redacted]

13. [Redacted]

14. [Redacted]

[Withheld under s.6(a)]

[Withheld under s.6(a)]

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15. A 'to whom it may concern' letter has been made available through the MPI password protected website for dairy exporters to use in their discussions with clients.

**Communications**

16. There has been very limited media follow up on the contaminated WPC used at Palmerston North Girls High School.
17. Newspaper advertisements about the recall of Nutricia infant formula products are reduced in size and will finish tomorrow. Intensity of web advertisements is also reducing and will finish early next week.
18. Planning is now underway for communicating the changes in the scope of the product recall.

Please don't hesitate to contact me if you have any questions.

Kind regards,  
Scott

Scott Gallacher | Acting Director-General

Ministry for Primary Industries | Pastoral House 25, The Terrace | PO Box 2526 | Wellington | New Zealand

[s.9(2)(a)]

| Web: [www.mpi.govt.nz](http://www.mpi.govt.nz)

[seemail]

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**Ministry for Primary Industries**  
Manatū Ahu Matua



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**Aide-memoire:**

**From:** Dan Bolger, Deputy Director-General, Office of the Director-General

**Contact** Dan Bolger [REDACTED] *[Withheld under s.9(2)(a)]*

**To:** Hon. Nikki Kaye  
Minister for Food Safety

**Cc:** Hon Nathan Guy  
Minister for Primary Industries

Hon Jo Goodhew  
Associate Minister for Primary Industries

**Date:** 11 August 2013

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**Whey contamination issue: update for Monday 11 August**

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1. You have asked for a statement on the whey protein concentrate contamination issue that the Prime Minister could use for the post Cabinet press conference tomorrow, and that could be used to update Cabinet. The Acting Director-General asked me to progress this today, but you should note that aspects of it traverse several MPI Branches.
2. A draft statement is attached covering:
  - a. an update on the recall and tracing being undertaken for the response
  - b. MPI's compliance investigation
  - c. work to improve our food safety system.
3. Because there are events taking place on Monday morning, the draft statement will need to be updated for use later in the day.
4. I understand that you will be meeting with the Acting Director-General to discuss the draft statement on Monday morning.

**Minister / Minister's Office**

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## DRAFT: Update on whey protein concentrate contamination issue

### Update on response

#### *Recall and traceability progress*

5. After Fonterra advised of the potential contamination of three batches of whey protein concentrate, the Director-General of MPI issued a formal legal statement, and Nutricia put in place a voluntary recall of two products in the New Zealand market. This was to ensure that all potentially contaminated product was taken off the shelves.
6. Nutricia's recall was supported by advertising by both Nutricia and MPI/Ministry of Health. Consumers have been advised to return affected product to the store where they purchased it.
7. Nutricia is now looking to reduce the scope of its recall, so it covers only product manufactured between 21 May 2013 and 2 August 2013 inclusive. This is because the recalled product currently includes product manufactured outside the period when the potentially contaminated whey protein concentrate was being used.
8. MPI has been working with Nutricia to verify information and enable the scope of the recall to be narrowed. This work has progressed to the point where Nutricia is planning to announce the change to the scope of its recall at noon on Monday 12 August.
9. The Acting Director-General of MPI will be deciding on Monday morning whether to narrow the scope of his legal statement in line with Nutricia's proposed narrowing of its recall. [to be updated following decision]. The Acting Director-General's decision will continue to prioritise protecting public health.
10. [Assuming Acting D-G updates his legal statement] Based on the information provided by Nutricia and the tracing and verification work that has been done, consumers can be confident that all infant formula for sale in New Zealand has not been manufactured using the potentially contaminated whey protein concentrate. This recall did not apply to other markets. Consumers should still check to make sure they do not have any products that are part of the updated recall. Communications will be updated so consumers know to call one of the 0800 help lines for assistance (Plunketline, Healthline, the MPI consumer helpline, or Nutricia's line) if they are uncertain about any of the products they have at home.

### MPI response process and compliance investigation

11. MPI's response has had a significant focus on verifying what has happened with respect to affected product. This has included visits to Fonterra's data and

## **Security Level – In Confidence**

distribution centres in Auckland, Hamilton and Victoria Australia, and visits to Nutricia's warehouses.

12. Following the response, MPI will undertake a formal debrief process, to identify lessons learned.
13. MPI has also begun a compliance investigation into the contamination incident.
14. The purpose of this compliance investigation is to determine whether the regulatory requirements were met by all the parties involved, or whether any parties have committed any breaches or offences. The investigation will include decisions made by all the parties and their response to the incident. The investigation is in the early stages and it will take some time to work through given the complexity of this issue.

### **Improvements to our food safety system**

15. The Minister for Food Safety has asked for advice on any potential changes to the law from what we know so far. The Food Bill is at Select Committee and she has told me she wants to move quickly to identify any potential improvements and get these to select committee.
16. The Minister for Food Safety already has some specific work underway on infant formula assurances. This focuses on initiatives to improve the integrity of our food supply chain to further protect and strengthen confidence in New Zealand's food assurance systems to match rapid growth in infant formula exports.
17. While there is no suggestion at this stage of regulatory failure, and in fact the regulator acted decisively in the interests of public health once an issue was identified, nonetheless perceptions of the quality of our systems are important. Minister Kaye will be working with the Minister for Primary Industries, Hon Nathan Guy, to determine what else may need to happen to improve confidence in our systems.
18. Hon Nathan Guy is working with Hon Tim Groser, Minister for Trade, on potential visits to countries that have been impacted by the whey protein concentrate contamination issue.

### **Any other possible inquiries or reviews**

19. Ministers are considering what further reviews or enquiries may be required to ensure that public interest in the management of food safety response and maintenance of New Zealand's reputation for producing safe food, are met.
20. Fonterra has also advised publicly that its Board will be conducting a formal review, with independent expert advice.

AM13-115

**Ministry for Primary Industries**  
Manatū Ahu Matua



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**Aide-memoire:**

**From:** **Scott Gallacher**  
Acting Director-General

**Contact:** Scott Gallacher [REDACTED] *[Withheld under s.9(2)(a)]*

**To:** Hon Nikki Kaye  
Minister for Food Safety

**Cc:** Rt Hon John Key, Prime Minister  
Hon Bill English, Minister of Finance  
Hon Steven Joyce, Minister for Economic Development  
Hon Nathan Guy, Minister for Primary Industries  
Hon Murray McCully, Minister of Foreign Affairs  
Hon Tim Groser, Minister of Trade  
Hon Tony Ryall, Minister of Health  
Hon Jo Goodhew, Associate Minister for Primary Industries

**Date:** **Monday 12 August 2013**

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**Whey protein concentrate response: contamination issue update 11**

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**Key points**

1. The Acting Director-General of MPI issued a revised Statement, reducing the scope of infant formula potentially affected by contaminated WPC. Nutricia has reduced the scope of its product recall notice. Nutricia's new notice aligns with the Acting Director-General's revised Statement.
2. MPI has publicly announced that it has commenced a compliance investigation into the potential contamination incident.
3. The trade focus is on providing:
  - specific tracing information for overseas regulators to enable them to protect their consumers;
  - full tracing of affected products, including cross-contamination, [REDACTED] to support a resumption of trade, working with Dairy Companies Association of NZ and other exporters.

[s.6(a)]

### **Revised Director-General Statement and updated Nutricia recall**

4. We have worked closely with Nutricia to gain assurance that the scope of the infant formula recall can safely be narrowed. We gained sufficient clarity over the weekend about the potentially contaminated batches of infant formula to narrow the scope of the Acting Director-General's Statement. The tracing concludes that the two Nutricia Karicare products produced within the date range are the only infant formula products that were potentially contaminated and released to the domestic market.
5. The Acting Director-General's Statement now advises that Nutricia Karicare Stage 1 Infant Formula (0-6 months) and Nutricia Karicare Gold+ Stage 2 Follow-on Formula (from 6 months) produced between 21 May 2013 and 2 August 2013 inclusive should not be consumed. It also advises that consumers return these products to their retailer.
6. Nutricia has also narrowed the scope of its voluntary recall and it fully aligns with the Acting Director-General's Statement.
7. In support of the narrowed scope, MPI has issued a media release (attached at Appendix 1), updated its website, and provided updated information to Plunketline, Healthline and MPI's consumer helpline.
8. Messages to all overseas posts coincided with issuing the new Director-General Statement and media release. A revised International Food Safety Authorities Network (INFOSAN) notification has been posted.

### **Tracing update**

9. The tracing team is preparing a close-out report that is expected to be completed by the end of this week. This report will document the full tracing of potentially contaminated WPC, including data verification and site audits.
10. Some Abbott product processed through Fonterra's Waitoa plant and exported to Vietnam is potentially contaminated, and tracing this is a priority. We are awaiting information from Fonterra to be able to fully differentiate between affected and non-affected product.
11. The market assurance team has been providing specific tracing information for overseas regulators, including information on infant formula intended for the New Zealand market that has been exported to Hong Kong.

### **Compliance investigation**

12. MPI has publicly announced that it has commenced an investigation into the potential contamination incident (media release attached at Appendix 2). Its purpose, amongst other things, is to identify whether Fonterra and other

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participants in the risk management process have complied with their regulatory obligations, or may have committed any breaches or offences.

13. The investigation will include decisions made by all the parties and their response to the incident. MPI will consider prosecuting any person or company if possible liability is identified under the Animal Products Act 1999 or the Food Act 1981. Other compliance actions will also be considered.
14. The compliance investigation is being led by the Director of Compliance and has at least 20 staff currently assigned to it. The investigation is in the early stages and it will take some time to work through given the complexity of this issue. Investigations of this scope and nature would normally take between three and six months.

### **Domestic infant formula supply**

15. The narrowed scope of Nutricia's recall notice should relieve any domestic supply issues for infant formula. Once the Food and Grocery Council has confirmed that the infant formula supply situation has stabilised, it will return to business as usual.

### **Domestic and overseas public health**

16. The New Zealand Paediatric Surveillance Unit advises that no notifications of acute flaccid paralysis (AFP) have been received to 12 August.
17. The Ministry of Health has taken steps to ensure that two immunoglobulin (anti-toxin) products are available, one suitable for infants and the other for adults. It has also ascertained that Australia has a supply of anti-toxin suitable for adults that New Zealand could access if required.
18. PlunketLine and Healthline are now receiving the normal number of calls. They have developed a contingency plan for managing another increase in calls, for example in the event that a clinically likely case is reported.
19. An updated YouTube clip will be available with Dr Pat Tuohy providing advice to parents about infant formula, reflecting the new recall situation.

### **Diagnostic testing of the WPC contamination**

20. A key focus of the response remains validating AgResearch's diagnosis of the strain of *Clostridium*, through multiple testing procedures in New Zealand and overseas. The United States Center for Disease Control will be testing the samples using the same technique that AgResearch used (mouse bioassay), once samples have cleared the US border. Genetic sequencing by MPI and Massey University laboratories is proceeding, but results are still 1-2 weeks away.

21. In addition, sample testing of potentially contaminated products under MPI investigation for *Clostridium* is proceeding. ESR is doing this testing and results are expected in 1-3 weeks.

**Market access and trade**

22. [REDACTED]

23. We need to work through the full tracing of affected products, including cross-contamination is necessary [REDACTED]

[REDACTED] MPI is working with the Dairy Companies Association of NZ and other exporters to resolve these issues.

24. [REDACTED]

25. Appendix 3 provides a traffic-light status update for all markets.

**Forward focus and next steps**

26. The objectives over the coming days include:

- Protecting domestic and overseas health, as well as consumer confidence
- Tracing and confirming contaminated product domestically and internationally
- Ensuring ongoing market access and assurance, by liaising with international markets and key exporters
- Determining the strain of *Clostridium*
- Progressing the compliance investigation
- Obtaining answers from the Technical Advisory Group on key questions needed to complete the response.

**Minister / Minister's Office**

Seen / Referred

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## APPENDIX 1. MPI Media release on revised Director General Statement

12 August 2013

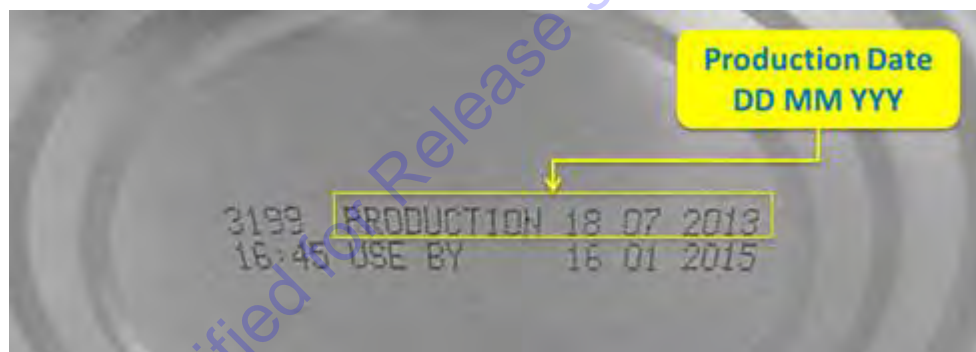
### Nutricia Karicare product recall applying to specific dates

The Acting Director-General of the Ministry for Primary Industries (MPI) has today issued a revised Statement under the Food and Animal Products Acts regarding the precautionary recall in New Zealand of two Nutricia Karicare infant formulas.

The revised statement shows that the precautionary recall now only applies to 900g cans of Nutricia Karicare Stage 1 Infant Formula (0-6 months) and Nutricia Karicare Gold+ Stage 2 Follow-on Formula (from 6 months) produced between **21 May 2013 and 2 August 2013 inclusive**.

Acting Director-General Scott Gallacher says this means batches of those products manufactured outside of those dates are now not affected by the precautionary recall.

“If people still have 900g cans of Nutricia Karicare Stage 1 Infant Formula (0-6 months) and Nutricia Karicare Gold+ Stage 2 Follow-on Formula (from 6 months) at home, they need to check the production date on the base of the tin which looks like this:



“If the production date is between 21.05.2013 and 02.08.2013, that infant formula is still subject to a precautionary recall within New Zealand and has the potential of being contaminated by the bacteria *Clostridium botulinum*. It should not be consumed and we recommend it be returned to the place you purchased it from,” Mr Gallacher says.

“Please note this only applies to the two products listed above. No other Nutricia Karicare products are being recalled. All 29.6g sachets and 32.8g sticks of Karicare infant and follow on formulas, regardless of production date, are now also excluded from the precautionary recall, and can be consumed.”

Mr Gallacher says working closely with its government and industry partners, MPI has been able to identify and trace all potentially affected Nutricia products and narrow down the scope of the potentially affected Karicare formulas. MPI continues to notify and work with all markets identified as having received any potentially affected product.

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“As always, the health and wellbeing of consumers is our top priority. We now know, on the basis of information from Fonterra and Nutricia, which we have now verified, which Nutricia products were manufactured using the potentially contaminated whey protein concentrate. Batches of the two affected Karicare infant formulas not manufactured within those specific dates can now go back on the shelves.

“Nutricia has given us full confidence that the only products going back on supermarket shelves from today are manufactured outside of those dates,” Mr Gallacher says.

Anyone wanting more information on which products are subject to recall and how to check production dates should call Nutricia’s Customer Careline on 0800 258 268.

Anyone with health concerns related to this issue should contact **Healthline on 0800 611 116** or **Plunketline on 0800 933 922**.

**For more information, please contact the MPI Mediaphone on 029 894 0328.**

**The Acting Director-General’s statement is attached.**

Declassified for Release 9 December 2014

**REVISED DIRECTOR-  
GENERAL STATEMENT  
UNDER THE**

**ANIMAL PRODUCTS ACT 1999 AND THE FOOD ACT 1981**

12 August 2013, 12:00 pm - Statement 4

*This statement updates the Director-General statement issued at 3pm 6 August 2013.*

Further to my statement issued at 3pm on Tuesday 6 August 2013, Nutricia has now issued a recall for Karicare Stage 1 Infant Formula (0-6 months) and Karicare Gold+ Stage 2 Follow-on Formula (from 6 months) products produced between 21 May 2013 and 2 August 2013 inclusive. Information about this recall may be found at <http://www.nutriciababy.co.nz/main/aboutus/news.html>

There is a possibility that these products have been produced with whey protein concentrate (WPC80) potentially contaminated with the bacteria known as Clostridium botulinum, which can cause illness. Nutricia has now identified, and the Ministry for Primary Industries has verified to my satisfaction, the production dates between which Karicare Stage 1 Infant Formula (0-6 months) and Karicare Gold+ Stage 2 Follow-on Formula (from 6 months) products may have been affected.

**As Acting Director-General, I, Scott Gallacher, for the purpose of section 37 of the Food Act 1981 and section 84 of the Animal Products Act 1999, advise that:**

- my statement of 6 August 2013 issued at 3pm is updated by this statement; and
- the following Nutricia products should not be consumed:
  - Nutricia Karicare Stage 1 Infant Formula (0-6 months), produced between 21 May 2013 and 2 August 2013 inclusive.
  - Nutricia Karicare Gold+ Stage 2 Follow-on Formula (from 6 months) produced between 21 May 2013 and 2 August 2013 inclusive.

**Consumers should return these products to their retailer.**

**Explanation**

This statement updates the one issued by me on 6 August 2013.

Nutricia has now issued a recall for Karicare Stage 1 Infant Formula (0-6 months) 900g cans and Karicare Gold+ Stage 2 Follow-on Formula (from 6 months) 900g cans produced between 21 May 2013 and 2 August 2013 inclusive. That formula may have been produced with whey protein concentrate potentially contaminated with the bacteria Clostridium botulinum, which can cause illness. Information about this recall may be found at <http://www.nutriciababy.co.nz/main/aboutus/news.html>.

Karicare Infant Stage 1 Formula (0-6 months) and Karicare Gold+ Stage 2 Follow-on Formula (from 6 months) products produced before 21 May 2013 are unaffected by the potential contamination.

Karicare Infant Stage 1 Formula (0-6 months) and Karicare Gold+ Stage 2 Follow-on Formula (from 6 months) products produced after 2 August 2013 are unaffected by the potential contamination.

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If you have any concerns about the consumption of these products, please call the following numbers.

If your concern is for health reasons, please call Healthline on 0800 611 116 or Plunketline 0800 933 922 for advice.

If your concern is about other aspects of these products, please call the Ministry for Primary Industries' consumer helpline on 0800 693 721.

Scott Gallacher  
Acting Director-General

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## **APPENDIX 2. MPI Media release on compliance investigation**

### **MPI commences compliance investigation into whey contamination incident**

The Ministry for Primary Industries (MPI) has commenced a compliance investigation into the potential contamination of three batches of Fonterra's whey protein concentrate.

"I have said a number of times since MPI was first notified on Friday August 2 of this issue, that we have a number of questions about it, including when relevant parties were informed, and when they should have been informed," MPI acting Director-General Scott Gallacher said.

"This compliance investigation will determine whether regulatory requirements under the Food Act and the Animal Products Act were met by all parties involved, or whether any parties may have committed any breaches or offences.

"The investigation will include decisions made by all parties and their response, including during production of the whey protein concentrate, and from when anomalies in testing initially arose. It will be led by MPI's Director of Compliance, and will involve upwards of 20 people," Mr Gallacher said.

"MPI will continue to provide operational updates on other matters relating to the potential contamination of whey protein concentrate, but it cannot comment any further on the compliance investigation until it is completed. It is likely to take three to six months," Mr Gallacher said.

Maximum penalties for breaching regulations under the Food and Animal Products Acts range from \$100,000 to \$500,000, and/or up to 12 months imprisonment, depending on the nature of the offence.

MPI will also undertake a formal debrief process on its own response to the incident, to identify any lessons learned.

**Media Contact:** call MPI's media phone on 029 894 0328

*Appendix 3 is withheld under 6(a)*

AM13-120

**Ministry for Primary Industries**  
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**Aide-memoire:**

**From:** Scott Gallacher  
Acting Director-General

**Contact:** Scott Gallacher [REDACTED] [Withheld under s.9(2)(a)]

**To:** Hon Nikki Kaye  
Minister for Food Safety

**Cc:** Rt Hon John Key, Prime Minister  
Hon Bill English, Minister of Finance  
Hon Steven Joyce, Minister for Economic Development  
Hon Nathan Guy, Minister for Primary Industries  
Hon Murray McCully, Minister of Foreign Affairs  
Hon Tim Groser, Minister of Trade  
Hon Tony Ryall, Minister of Health  
Hon Jo Goodhew, Associate Minister for Primary Industries

**Date:** Tuesday 13 August 2013

**Whey protein concentrate response: contamination issue update 12**

**Key points**

1. Nutricia has commissioned an advertising campaign to publicise its narrowed recall through a range of media channels over the next four days.
2. [REDACTED]
3. [REDACTED]
4. Fonterra has advised us that more potentially contaminated livestock feed may be on the New Zealand market. The product was previously thought to be restricted to the Australian market. MPI's initial risk assessment is that the risk posed by this

[Withheld under s.6(a)]

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product is low and there is no need for a recall. The assessment will be confirmed in tomorrow's report.

5. MPI is planning communications for when the results of the *Clostridium* testing are known.

**Government inquiry into the whey protein concentrate incident**

6. A Cabinet paper on the government inquiry that the Prime Minister and Ministers have announced is being prepared for next Monday.

**Revised Director-General Statement and updated Nutricia recall**

7. Nutricia has commissioned an advertising campaign to publicise its narrowed recall through a range of media channels over the next four days (until Friday 16 August). They will run:
  - full colour press advertising in the major daily papers today and tomorrow only (13 and 14 August)
  - 45 second radio advertisements on a wide range of national stations including Newstalk ZB, 91 FM, Classic Hits, Mai FM and the Breeze and a nationwide spread of local radio stations
  - online advertising on Stuff, Essential Mums, Kidspot, NZ Herald, and Oh Baby
8. MPI put out a media statement on the narrowing of the recall yesterday. The MPI website has information on this, as do Healthline, Plunketline and the MPI food safety consumer line.
9. MPI will not be running paid advertising on the narrowing of the Director-General's Statement. Our previous advertising has ensured there is a high level of public awareness of the general recall. MPI's print advertising concluded on Sunday 11 August. We stopped our on-line advertising on Monday 12 August a day ahead of schedule to ensure there were not conflicting messages for consumers with the narrowing of the Nutricia recall.
10. Nutricia has advised us that it is comfortable with MPI not doing further advertising.

**Tracing update**

11. Work is continuing on the tracing and verification close-out report that is expected to be completed by the end of this week. This report will document the full tracing of potentially contaminated whey protein concentrate, including data verification and site audits.
12. The tracing of potentially contaminated Abbott product processed through Fonterra's Waitoa plant and exported to Vietnam has been completed. A letter is

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being prepared clarifying the status of product that has gone to Vietnam so that Vietnamese authorities can apply appropriate measures to the product.

13. MPI has received new information from Fonterra indicating that more potentially contaminated livestock feed may be on the New Zealand market. The product in question was made for Maxun Stockfeed (an Australian company). It was previously thought that this product was restricted to the Australian market, but it appears likely that 100 MT has been re-shipped to New Zealand. MPI's initial risk assessment is that the risk posed by this product is low and there is no need for a recall. This assessment will be confirmed in tomorrow's report.

### **Domestic infant formula supply**

14. Supermarkets continue to report good stock levels and no significant change in consumer behaviour.

### **Domestic and overseas public health**

15. The New Zealand Paediatric Surveillance Unit advises that no notifications of acute flaccid paralysis (AFP) have been received to 13 August.
16. The Ministry of Health has taken steps to ensure that two immunoglobulin (anti-toxin) products are available, one suitable for infants (under one year old) and the other for adults.
17. The anti-toxin for infants is available only on a case-by-case basis for suspected or confirmed cases, from the United States (California Department of Health). Delivery time to New Zealand is estimated at 24 to 48 hours. MEDSAFE has made arrangements so that the anti-toxin can enter the country under urgency.
18. PHARMAC has ordered enough adult anti-toxin for 2-3 adult patients. It has also ascertained that Australia has a supply of anti-toxin suitable for adults that New Zealand could access if required.
19. Following the narrowing of the recall, PlunketLine's call volume has increased to 150 percent of the normal number of calls. MPI's Consumer food safety advice helpline has also reported an increase in calls. Healthline is receiving about the normal number of calls.

### **Communications update**

20. We are developing a contingency plan for communications for when the results of the *Clostridium* diagnostic testing are known. The plan will cover communications for a positive, negative or uncertain result. We are also developing a plan in the event that a suspected botulism case arises in New Zealand or overseas.

**Technical Advisory Group**

21. The Technical Advisory Group met yesterday to consider technical questions in the following areas:

- Microbiological testing of dried dairy products
- Food safety assurances for powdered milk products
- Safety evaluation for carry over in blended products
- Disposal of potentially contaminated products including risks of feeding to livestock

22. The Technical Advisory Group's advice is being used as an input for response decisions.

**Trade and market access**

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28. Appendix 1 provides a traffic-light status update for all markets.

**Forward focus and next steps**

29. The objectives over the coming days include:

- Protecting domestic and overseas health, as well as consumer confidence
- Completing the tracing and verification final report
- Ensuring ongoing market access and assurance, by liaising with international markets and key exporters
- Determining the strain of *Clostridium*

[Withheld under s.6(a)]

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- Progressing the MPI compliance investigation and the Government inquiry

**Minister / Minister's Office**

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*Appendix 1 is withheld under 6(a)*

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Ministry for Primary Industries

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**Aide-memoire:**

**From:** Scott Gallacher  
Acting Director-General

**Contact:** Scott Gallacher [REDACTED] [Withheld under s.9(2)(a)]

**To:** Hon Nikki Kaye  
Minister for Food Safety

**Cc:** Rt Hon John Key, Prime Minister  
Hon Bill English, Minister of Finance  
Hon Steven Joyce, Minister for Economic Development  
Hon Nathan Guy, Minister for Primary Industries  
Hon Murray McCully, Minister of Foreign Affairs  
Hon Tim Groser, Minister of Trade  
Hon Tony Ryall, Minister of Health  
Hon Jo Goodhew, Associate Minister for Primary Industries

**Date:** Wednesday 14 August 2013

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**Key points**

1. [REDACTED]
2. [REDACTED]
3. About 0.5 tonnes of potentially contaminated Maxun calf milk replacement formula has been sold by Farmlands which has around 99.5 tonnes still in stock. MPI has assessed the risk of the stock feed as lower than the background risk of calf exposure to naturally occurring soil borne botulism sources. Farmlands do not currently intend to do a recall and are considering continuing to sell the product. The level of risk/contamination is not sufficient to meet the threshold for an MPI recall under the Agriculture Compounds and Veterinary Medicines Act 1997. We are continuing discussions with Farmlands and will report further on this tomorrow.

[Withheld under s.6(a)]

### **Tracing update**

4. Work is continuing on the tracing and verification close-out report we expect to complete by the end of this week. This report will document the full tracing of potentially contaminated whey protein concentrate, including data verification and site audits.
5. A risk assessment for Abbotts Pharmaceuticals has concluded that their products are not affected by the potential contamination event. Fonterra and Abbotts have been advised of this assessment.

### **Potentially contaminated livestock feed**

6. On Tuesday 13 August, MPI received new information from Fonterra indicating that more potentially contaminated livestock feed may be on the New Zealand market. The product in question was made for Maxum Stockfeed (an Australian company). It was previously thought that this product was restricted to the Australian market, but about 100 tonnes have been re-shipped to New Zealand. Only a small amount of the stock feed has been sold through Farmlands outlets (about 0.5 tonnes).
7. MPI has assessed the botulism risk from the stock feed as low. We do not consider it to be as high as the background risk of stock exposure to naturally occurring soil borne botulism sources. The main factors for this assessment are:
  - A dilution effect. The concentration of potentially contaminated spores in the stock feed is very low as a result of blending at Darum, and blending by Maxum into the final calf milk replacer product.
  - The normal handling of this product minimises toxin risks (mixing just prior to use, little residue remaining in feeders and daily rinsing of feeders).

In addition, while calves are susceptible to toxin there is no known syndrome that is similar to infant botulism (where ingested spores produce a toxin inside the body).

8. Any MPI recall would need to be done under the Agricultural Compounds and Veterinary Medicines Act and MPI considers that the contamination does not meet the thresholds required for a recall under that Act.
9. We understand Farmlands is not intending to issue a recall of the 0.5 tonnes already sold and is considering continuing to sell the remaining 99.5 tonnes it holds. Our risk assessment would suggest that, from a technical perspective, this is justifiable and we will be sharing our assessment with the NZ Veterinary Association. Farmlands will need to consider a range of factors, including reputational issues, in deciding how to proceed.
10. We will be continue to discuss disclosure and recall issues with Fonterra and Farmlands tomorrow and will report on the outcomes in tomorrow's aide memoire.

**Domestic infant formula supply**

11. Supermarkets continue to report good stock levels and no significant change in consumer behaviour. One of the major chains advises it has up to 20 days of supply and report no shortages in rural areas.

**Domestic and overseas public health**

12. The New Zealand Paediatric Surveillance Unit advises that no notifications of acute flaccid paralysis (AFP) have been received to 14 August.
13. Call volumes to all help lines are returning towards normal levels.

**Trade and market access**

14. [REDACTED]
15. The strategy should be completed by Friday 16 August. Our technical teams are preparing to do any additional testing required including identifying appropriate laboratory capacity.
16. [REDACTED]
17. [REDACTED]
18. We are working on another International Food Safety Authorities Network (INFOSAN) update to provide additional detail requested by the Network.
19. [REDACTED]
20. Appendix 1 provides a traffic-light status update for all markets.

[Withheld under s.6(a)]

## **Response Capability**

21. The WPC response has involved all branches across MPI and officials from a range of other agencies including MFAT, MoH, NZTE and DPMC. Staff from six of MPI's eight branches are directly involved in the response and staff from all eight branches provide backfill to support business as usual. Some of the key aspects of how this response has been managed include:
- coordination through a shared response framework across MPI's functions, including critical mass in scientific risk analysis, diagnostic investigation, standard setting, food recall, policy, legal, compliance and communications functions. A good example is how we now have multi-warranted investigators and compliance officers that can be deployed across the full suite of MPI's responsibilities; and
  - utilising specialist skills, capabilities and advanced ideas that sit within MPI. A good example is the combined intelligence team that is contributing to tracing contaminated WPC. Similarly, we have used MPI's economic analysis capability to work with Treasury on the likely economic impacts. We have also had international policy and market access teams working together with MFAT to develop a single market access and trade view.

## **Forward focus and next steps**

22. The objectives over the coming days include:
- Protecting domestic and overseas health, as well as consumer confidence
  - Completing the tracing and verification final report
  - Ensuring ongoing market access and assurance, by liaising with international markets and key exporters
  - Determining the strain of *Clostridium*
  - Progressing the MPI compliance investigation and the Government inquiry.

## **Minister / Minister's Office**

Seen / Referred

/ /2013

*Appendix 1 (WPC Market Update) is withheld under 6(a)*

AM13-130

Ministry for Primary Industries  
Manatū Ahu Matua



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**Aide-memoire:**

**From:** Scott Gallacher  
Acting Director-General

**Contact:** Scott Gallacher [REDACTED] [Withheld under s.9(2)(a)]

**To:** Hon Nikki Kaye  
Minister for Food Safety

**Cc:** Rt Hon John Key, Prime Minister  
Hon Bill English, Minister of Finance  
Hon Steven Joyce, Minister for Economic Development  
Hon Nathan Guy, Minister for Primary Industries  
Hon Murray McCully, Minister of Foreign Affairs  
Hon Tim Groser, Minister of Trade  
Hon Tony Ryall, Minister of Health  
Hon Jo Goodhew, Associate Minister for Primary Industries

**Date:** Thursday 15 August 2013

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**Whey protein concentrate response: contamination issue update 14**

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**Key points**

1. The key development to report today was Fonterra providing Nutricia and ourselves with amended information which we have had to factor into our tracing and verification work.

**Tracing update**

2. This afternoon, Nutricia informed us that Fonterra had amended some information associated with the contaminated whey protein concentrate (WPC). In essence, they have adjusted some pallet numbers. Nutricia have traced the product on the back of the amended information and advised us tonight they believe the pallets in question are fully contained within the affected batches that we have already identified, recalled and locked down.
3. Nutricia have ceased selling to customers until MPI has verified their data reconciliation, scheduled for tomorrow at 7am at Nutricia's Mt Wellington facility.

**Security Level – Sensitive: Commercial in Confidence**

4. We understand that Nutricia had previously been supplied by Fonterra with an incorrect list of pallet numbers by Fonterra.
5. Work is continuing on the tracing and verification close-out report scheduled for Friday 16 August.

**Potentially contaminated livestock feed**

6. On Tuesday 13 August, MPI identified that 100 tonnes of potentially contaminated livestock feed may be in New Zealand. MPI has assessed the botulism risk from the stock feed as low. 318 kilograms of the product has been sold in New Zealand through Farmlands CRT (thought to be 500 kilograms yesterday (0.5 tonnes)).
7. The 99.7 tonnes of unsold product is being held as a precautionary measure while MPI and Fonterra make a final decision on its suitability for sale. This is expected to occur early next week.

**Diagnosing the type of *Clostridium***

8. Overnight, our samples cleared Customs in the United States and reached the Centers for Disease Control and Prevention. The earliest we expect results from them on the strain type is Friday 23 August.

**Domestic infant formula supply**

9. Supermarkets continue to report good stock levels in urban and rural areas. Nutricia has put additional staff into retail stores to ensure stock on shelves is correct. Progressive Enterprises Limited and Foodstuffs yesterday issued new notices for retailers to display with their stock.

**Domestic and overseas public health**

10. The New Zealand Paediatric Surveillance Unit advises that no notifications of acute flaccid paralysis (AFP) have been received to 15 August. We have received no overseas reports of cases linked to New Zealand WPC.
11. Call volumes to all help lines are at normal levels.

**Trade and market access**

12. [REDACTED]
13. We are continuing our ongoing communications with posts and regulators in other markets to meet their information needs.

[s.6(a)]

14. Appendix 1 provides a traffic-light status update for all markets.

### **Liaison with industry**

15. We are beginning to scale back the frequency of liaison with industry. We are still in daily contact with Fonterra, and continue to have Fonterra staff located with us in Wellington. There was no teleconference with DCANZ today. Our next teleconference with them is on Friday 16 August.

### **Forward focus and next steps**

16. The objectives over the coming days include:

- Protecting domestic and overseas health, as well as consumer confidence
- Completing the tracing and verification final report
- Ensuring ongoing market access and assurance, by liaising with international markets and key exporters
- Determining the strain of *Clostridium*
- Progressing the MPI compliance investigation and the Government inquiry
- Establishing the process for the lessons learnt review.

### **Ministers' updates**

17. The pace of the response is now slowing with fewer daily developments. We will provide a further Aide Memoire on Friday 16 August, but propose that we do not provide reports over the weekend, unless there are significant developments. From next week, we propose to provide aide memoires on Tuesdays and Thursdays, with any significant developments reported immediately.

### **Minister / Minister's Office**

Seen / Referred

/ /2013

*Appendix 1 (WPC Market update) is withheld under 6(a)*

AM13-136

Ministry for Primary Industries  
Manatū Ahu Matua



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**Aide-memoire:**

**From:** Scott Gallacher  
Acting Director-General

**Contact:** Scott Gallacher [REDACTED] [Withheld under s.9(2)(a)]

**To:** Hon Nikki Kaye  
Minister for Food Safety

**Cc:** Rt Hon John Key, Prime Minister  
Hon Bill English, Minister of Finance  
Hon Steven Joyce, Minister for Economic Development  
Hon Nathan Guy, Minister for Primary Industries  
Hon Murray McCully, Minister of Foreign Affairs  
Hon Tim Groser, Minister of Trade  
Hon Tony Ryall, Minister of Health  
Hon Jo Goodhew, Associate Minister for Primary Industries

**Date:** Friday 16 August 2013

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**Whey protein concentrate response: contamination issue update 15**

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**Key points**

1. MPI has now verified the amended information provided yesterday by Fonterra, and is confident that this does not affect any product not already identified and either locked down or subject to recall.

**Tracing update**

2. Yesterday afternoon, Nutricia informed us that Fonterra had identified some additional pallets of contaminated whey protein concentrate (WPC). MPI has verified Nutricia's data reconciliation and is confident that the pallets in question are fully contained within the affected batches that we have already identified, recalled and locked down. Nutricia has resumed selling products to customers.
3. We understand that Nutricia had previously been supplied by Fonterra with an incorrect list of pallet numbers.

4. Work is continuing on the tracing and verification close-out report, partly as a result of the recent information we have been receiving. When the report is finalised, you will be sent a copy. MPI will also distribute the report to overseas regulators and Posts.

#### **Diagnosing the type of *Clostridium***

5. No further update. The earliest we expect results on the strain type is Friday 23 August.
6. We are preparing a communications plan for when the test results are received. The plan incorporates communications messages for three scenarios: the tests return a positive result for *C. botulinum*, the tests are negative and the tests are inconclusive. We will be agreeing messages with other agencies.

#### **Domestic infant formula supply**

7. No further update. The domestic infant formula supply situation is now stable.

#### **Domestic and overseas public health**

8. No notifications of acute flaccid paralysis have been received by the New Zealand Paediatric Surveillance Unit to 16 August. We have received no overseas reports of cases linked to New Zealand WPC. Health services will remain on alert for the next 30 days, as the incubation period for botulism is 30 days.
9. The Ministry of Health is still working to secure supplies of anti-toxin. This is taking longer than expected, due to additional documentation requirements. The Ministry can access supplies from Australia quickly if required.
10. Call volumes to all help lines are at normal levels.

#### **Trade and market access**

11. [Redacted]
12. [Redacted]

[Withheld under s.6(a)]

**Security Level – Sensitive: Commercial in Confidence**

13. We are continuing our ongoing communications with posts and regulators in other markets to meet their information needs.
14. Appendix 1 provides a traffic-light status update for all markets.

**Forward focus and next steps**

15. The objectives over the coming days include:
  - Protecting domestic and overseas health, as well as consumer confidence
  - Completing the tracing and verification final report
  - Finalising a plan to restore full market access in key markets
  - Liaising with international markets and key exporters
  - Determining the strain of *Clostridium*
  - Progressing the MPI compliance investigation and the Government Inquiry
  - Establishing the process for an internal lessons learnt review of the response.

**Ministers' updates**

16. As indicated yesterday, we propose to provide further aide memoires on Tuesdays and Thursdays, with any significant developments reported immediately.

**Minister / Minister's Office**

Seen / Referred

/ /2013

*Appendix 1 (WPC Market update) is withheld under 6(a)*

AM13-142

Ministry for Primary Industries  
Manatū Ahu Matua



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**Aide-memoire:**

**From:** Scott Gallacher  
Acting Director-General

**Contact:** Scott Gallacher [REDACTED] [Withheld under s.9(2)(a)]

**To:** Hon Nikki Kaye  
Minister for Food Safety

**Cc:** Rt Hon John Key, Prime Minister  
Hon Bill English, Minister of Finance  
Hon Steven Joyce, Minister for Economic Development  
Hon Nathan Guy, Minister for Primary Industries  
Hon Murray McCully, Minister of Foreign Affairs  
Hon Tim Groser, Minister of Trade  
Hon Tony Ryall, Minister of Health  
Hon Jo Goodhew, Associate Minister for Primary Industries

**Date:** Tuesday 20 August 2013

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**Whey protein concentrate response: contamination issue update 16**

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**Key points**

1. MPI is currently finalising its tracing and verification report and expects to release this later in the week.
2. There are two health cases of note: the first [REDACTED]  
[REDACTED] is the likely diagnosis, rather than botulism. The second is [REDACTED]  
[REDACTED] The Ministry of Health has been advised that the child has not had infant formula.
3. MPI has today announced that it will be initiating some interim measures to strengthen consumer assurances around New Zealand's dairy production.
4. Four inquiries into the potential contamination incident are either being established or underway.

[s.9(2)(a)]

### Tracing update

- [Withheld under s.6(a)]
5. Over the weekend, Fonterra identified further pallets of potentially contaminated whey protein concentrate (WPC) that was exported to Australia for processing into milk base powder. The subsequent products were exported from Australia to New Zealand, China, Malaysia and Thailand. MPI is confident that all product exported to New Zealand has not reached the market and is contained.
  6. MPI and MFAT have been liaising with the Australian Department of Agriculture, Fisheries and Forestry (DAFF), [REDACTED]  
[REDACTED]  
[REDACTED] We are working with each of them to fully trace all of the product. Only a small amount remains unaccounted for. We will update further tomorrow.
  7. Work is continuing on MPI's tracing and verification report. Subject to a legal check around potentially commercially sensitive information, MPI intends to make the final report available to:
    - overseas regulators of countries potentially affected;
    - a wider group of overseas regulators through the closed information-sharing network INFOSAN; and
    - the public by posting it on the MPI website.
  8. The response strategic leadership team will be considering the final report, the legal review and a communications plan on Thursday. Ministers will be provided with a copy of the report.
  9. The preliminary findings of the tracing and verification report are:
    - the potential contamination affected only the Hautapu plant WPC80 product on the last three days of the 2012 season (May 2012);
    - the cause of the potential contamination has been removed so future production is not affected;
    - much of the affected product was exported to Australia for processing and then on to other markets; and
    - all potentially affected product in New Zealand has been appropriately managed (cautionary Statements issued by the Director-General, product recalled or on hold, Notices of Direction to exporters prohibiting export).
  10. A draft high level flow of potentially affected product is included in Appendix 1.

### Diagnosing the type of *Clostridium*

11. The earliest we expect any definitive results on the strain type is Friday 23 August.

## Domestic and overseas public health

12. Notification of a [REDACTED]

[s.9(2)(a)]

[REDACTED] is the likely diagnosis, rather than polio or botulism.

13. Australian health authorities advised yesterday afternoon that they are investigating a case of infant botulism in Sydney. The Ministry of Health has been advised that the child has not had infant formula and the illness is not likely to be associated with this matter.

## Trade and market access

14. [REDACTED]

[s.6(a)]

15. We are continuing our ongoing communications with posts and regulators in other markets to meet their information needs.
16. Appendix 2 provides a traffic-light status update for all markets.

## Communications

17. MPI is aware that there has been public and trading partner concern about aspects of our food safety system as the result of this and other events over the last six months. In response, today MPI announced that it will:
- Increase the regulatory presence in manufacturing premises;
  - Increase the level of and nature of testing across dairy production to improve the identification of non-compliance issues;
  - Run tracing simulations to test the capability of the industry to rapidly track and trace product through their supply chains; and
  - Increase reviews of the risk management plans dairy producers have for manufacturing facilities.

## Investigations

### *Government inquiry*

18. The Government has agreed in principle to establish a joint Ministerial-led Government Inquiry. The inquiry will report in two parts.
19. An interim report will be produced within three months of the inquiry being initiated. It will cover regulatory and best practice requirements against the background of this incident in relation to the dairy industry, including the response of regulators.

20. A final report will be produced following the conclusion of the MPI compliance investigation and will additionally look at how the potentially contaminated whey protein concentrate entered the New Zealand and international market, and how this was subsequently addressed.
21. The inquiry will be chaired by Miriam Dean QC, past president of the Bar Association.

*MPI compliance investigation*

22. The MPI compliance investigation continues.

*Other inquiries*

23. Fonterra's management has initiated an inquiry into this incident and the Fonterra Board has also established an independent Inquiry Committee, chaired by Sir Ralph Norris. The Board's Inquiry Committee has been charged with overseeing an independent review into the circumstances giving rise to the WPC incident and the subsequent chain of events. The Board intends that the Inquiry is completed within six weeks.
24. The Financial Markets Authority has indicated it may also investigate whether Fonterra met the relevant securities legislation requirements.

**Forward focus and next steps**

25. The objectives over the coming days include:
  - Protecting domestic and overseas health, as well as consumer confidence
  - Completing the tracing and verification final report
  - Finalising a plan to restore full market access in key markets
  - Liaising with international markets and key exporters
  - Determining the strain of *Clostridium*
  - Progressing the MPI compliance investigation and the Government Inquiry
  - Establishing the process for an internal lessons learnt review of the response.

**Ministers' updates**

26. We propose to provide further aide memoires on Tuesdays and Thursdays, with any significant developments reported immediately.

**Minister / Minister's Office**

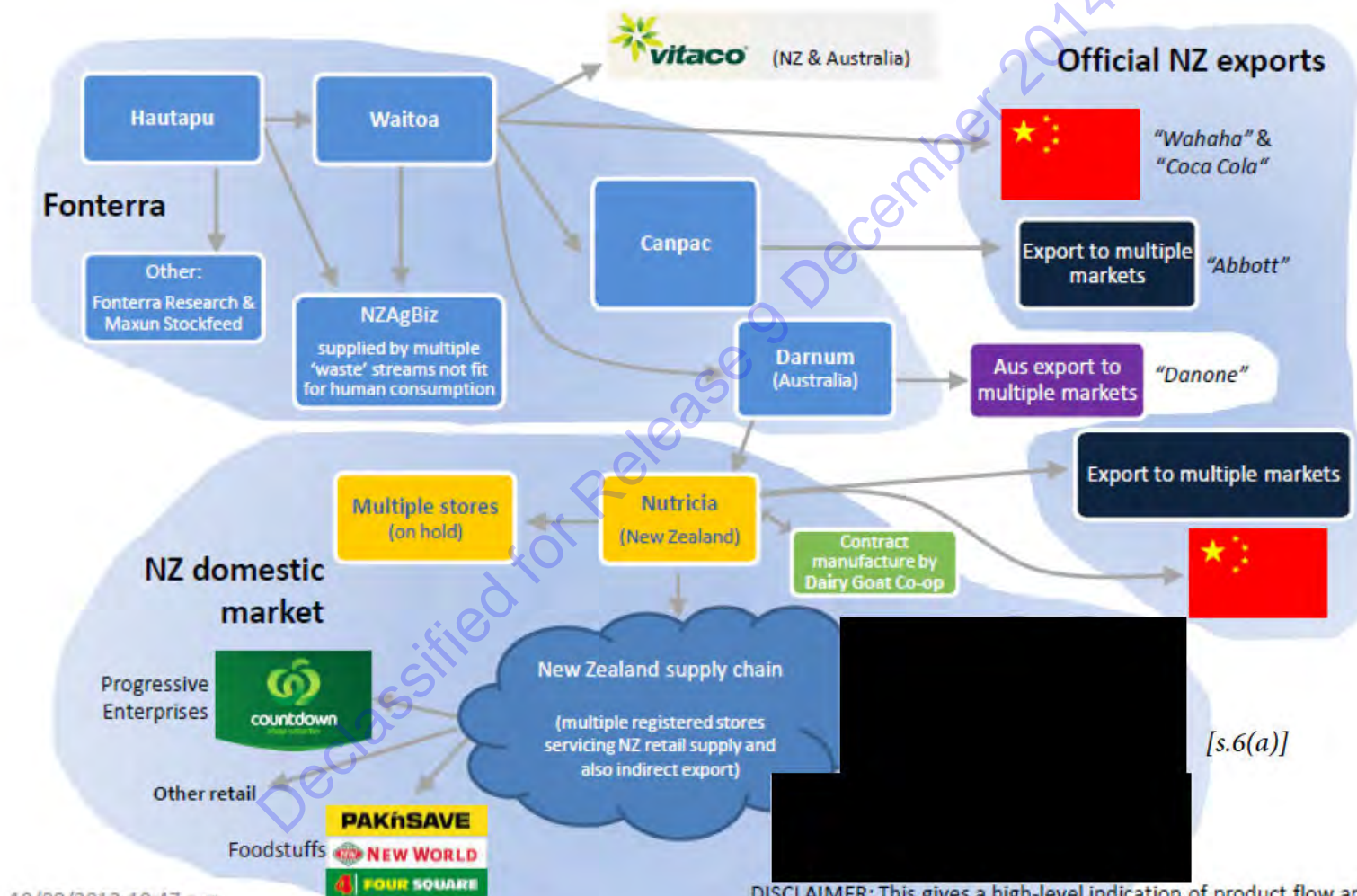
Seen / Referred

/ /2013

APPENDIX 1

**High-level flow of potentially-affected product**

Commercial  
In-Confidence



19/08/2013 10:47 a.m.

DISCLAIMER: This gives a high-level indication of product flow and entity relationships. It is not intended to be a definitive reference.

AM13-142

**Ministry for Primary Industries**  
Manatū Ahu Matua



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**Aide-memoire:**

**From:** **Scott Gallacher**  
Acting Director-General

**Contact** Scott Gallacher [REDACTED] [Withheld under s.9(2)(a)]

**To:** Hon Nikki Kaye, Minister for Food Safety

**Cc:** Rt Hon John Key, Prime Minister  
Hon Bill English, Minister of Finance  
Hon Steven Joyce, Minister for Economic Development  
Hon Nathan Guy, Minister for Primary Industries  
Hon Murray McCully, Minister of Foreign Affairs  
Hon Tim Groser, Minister of Trade  
Hon Tony Ryall, Minister of Health  
Hon Jo Goodhew, Associate Minister for Primary Industries

**Date:** **Thursday 22 August 2013**

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**Whey protein concentrate response: contamination issue update 17**

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**Key points**

1. We are working through the process of finalising the Tracing and Verification report and the plan for releasing it, including addressing any potential legal issues.
2. In terms of the additional pallets of potentially contaminated WPC that Fonterra informed us about over the weekend, as this is mixed into products exported from Australia, DAFF is the responsible competent authority. [REDACTED]  
[REDACTED]
3. Two recent health issues in New Zealand and Australia have both been confirmed as not being related to the contaminated products.

4. [REDACTED]  
[REDACTED]

[Withheld under s.6(a)]

[Withheld under s.6(a)]

5. [Redacted]

6. [Redacted]

#### Update on tracing

7. We are continuing work to finalise the Tracing and Verification Report. We have received preliminary legal advice on the risks of releasing the Report and how these risks can be mitigated. We are working through these issues and will release the report once it is completed. We intend to make the report available to the public after Ministers, overseas regulators and industry have seen it.

8. As you know, over the weekend, Fonterra identified further pallets of potentially contaminated WPC that was exported to Australia for processing into milk base powder [Redacted]

9. [Redacted]

10. [Redacted]

[Withheld under s.6(a)]

#### Diagnosing the type of *Clostridium*

11. The earliest we expect any definitive results on the strain type is tomorrow. Early results will require further validation before they can be relied on. Provisional results indicate an increasing likelihood that the contamination is not *C. botulinum*. We are planning for this scenario and the sequence of decisions and communications should it arise. However, we will be making no change to the response until we have confirmed information from the full suite of tests.

**Overseas market testing for *Clostridium botulinum***

12. A number of our trading partners are beginning or considering enhanced testing of our dairy products for *C. botulinum* using a mouse bioassay. [REDACTED]

[s.9(2)(g)(i)] [REDACTED]

**Trade and market access**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Declassified for Release 9 December 2014

[Withheld under s.6(a)]

17. Appendix 1 provides a traffic-light status update for all markets.

### Impacts of the response on New Zealand businesses

18. MPI and New Zealand Trade and Enterprise (NZTE) have been liaising with affected exporters throughout the response, ranging from food processing companies to health supplement firms. This week, companies expressed strong concern at the on-going nature of the WPC issue and its impact on business, [REDACTED]

19. The main issues companies voiced were:

- [REDACTED]
- what, if any, testing requirements are being put in place; and
- when definitive information about the original strain testing will be known.

20.

21.

22. NZTE will continue to work with MPI to update companies on a regular basis. We are drawing on the insights from the companies to inform the ongoing market access efforts.

### Communications

23. We are working with supermarkets on deciding when point of sale notices can be scaled back. We are currently proposing that notices are removed by the end of August. MPI will line up its website notifications with what is decided.

### Domestic and overseas public health

24. The [REDACTED], notified earlier this week, has been confirmed as not having infant botulism.

[Withheld under s.6(a)]

[s.9(2)(a)]

25. Australian authorities have confirmed that the Sydney baby with infant botulism did not consume infant formula.
26. The anti-toxin previously ordered by the Ministry of Health has arrived in New Zealand today. There is sufficient anti-toxin to treat 2-3 adults.

**Forward focus and next steps**

27. The objectives over the coming days continue to include:
  - Protecting domestic and overseas health, as well as consumer confidence
  - Completing the tracing and verification final report
  - Finalising a plan to restore full market access in key markets
  - Liaising with international markets and key exporters
  - Determining the strain of *Clostridium*
  - Progressing the MPI compliance investigation and the Government Inquiry
  - Beginning an internal lessons learnt review of the response, with a hot debrief on Monday 26 August.

**Ministers' updates**

28. We propose to provide further aide memoires on Tuesdays and Thursdays, with any significant developments reported immediately.

**Minister / Minister's Office**

Seen / Referred

/ /2013

*Appendix 1 is withheld under 6(a)*

AM13-159

**Ministry for Primary Industries**  
Manatū Ahu Matua



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**Aide-memoire:**

**From:** **Scott Gallacher**  
Acting Director-General

**Contact** Scott Gallacher [REDACTED] [Withheld under s.9(2)(a)]

**To:** Hon Nikki Kaye, Minister for Food Safety

**Cc:** Rt Hon John Key, Prime Minister  
Hon Bill English, Minister of Finance  
Hon Steven Joyce, Minister for Economic Development  
Hon Nathan Guy, Minister for Primary Industries  
Hon Murray McCully, Minister of Foreign Affairs  
Hon Tim Groser, Minister of Trade  
Hon Tony Ryall, Minister of Health  
Hon Jo Goodhew, Associate Minister for Primary Industries

**Date:** **Tuesday 27 August 2013**

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**Whey protein concentrate response: contamination issue update 18**

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**Key points**

1. We are releasing the Tracing and Verification report according to a staged plan. We expect that full public release will occur tomorrow (Wednesday) afternoon.
2. Provisional results indicate an increasing likelihood that the contamination is not *C. botulinum*, but we have not received any final results from the United States and will not have a confirmed result until later this week.
3. [REDACTED]
4. Affected New Zealand companies that export to [REDACTED] remain concerned about the impacts of the whey protein concentrate (WPC) contamination issue on business.

[s.6(a)]

## Tracing and Verification report

- [Withheld under s.6(a)]
5. You received a copy of the near-final Tracing and Verification report over the weekend. [Redacted]  
[Redacted] Yesterday the report was sent to all New Zealand overseas posts, along with instructions for notifying relevant Competent Authorities. [Redacted]  
[Redacted]  
[Redacted] e intend to make a full public release tomorrow (Wednesday) afternoon.

## Diagnosing the type of *Clostridium*

6. Provisional results indicate an increasing likelihood that the contamination is not *C. botulinum*, but we have not received any final results from the United States and will not have a confirmed result until later this week.
7. We are developing a report summarising the full suite of tests and results that MPI has initiated and undertaken on the back of Fonterra notifying us of the potential contamination on 2 August, and are considering the potential timing of release. At this stage, it is looking likely that this report could be released this coming Friday if we receive the final results from the United States in the next day or so, but this is something we would look to discuss more fully with Ministers.

## Trade and market access

- [Withheld under s.6(a)]
8. [Redacted]  
[Redacted]
9. [Redacted]  
[Redacted]
10. [Redacted]  
[Redacted]
11. Appendix 1 provides a traffic-light status update for all markets.

### Impacts of the response on New Zealand businesses

- [s.6(a)]
12. MPI and New Zealand Trade and Enterprise (NZTE) have been liaising with affected exporters throughout the response, ranging from food processing companies to health supplement firms. [REDACTED]
  13. Companies continue to report product hold-ups at borders, drops in orders and additional testing requirements. They see the release of the Verification and Tracing and Diagnostic reports as an important step in restoring market confidence.
  14. Companies are keen to continue liaison with NZTE and MPI. Tomorrow is the due date for the first regular weekly updates from companies on product flows to markets. We will draw on this information to inform the ongoing market access efforts.

### Domestic and overseas public health

15. No further notifications of acute flaccid paralysis have been received by the New Zealand Paediatric Surveillance Unit to Tuesday 27 August.

### Ministers' updates

16. We propose that a further briefing is provided after the diagnostic tests are confirmed, and then provide updates as required if there are further significant developments.

### Minister / Minister's Office

Seen / Referred

/ /2013

*Appendix 1 is withheld under 6(a)*

AM13-166

**Ministry for Primary Industries**  
Manatū Ahu Matua



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**Aide-memoire:**

**From:** Scott Gallacher  
Acting Director-General

**Contact:** Scott Gallacher [REDACTED] [Withheld under s9(2)(a)]

**To:** Hon Nikki Kaye, Minister for Food Safety

**Cc:** Rt Hon John Key, Prime Minister  
Hon Bill English, Minister of Finance  
Hon Steven Joyce, Minister for Economic Development  
Hon Nathan Guy, Minister for Primary Industries  
Hon Murray McCully, Minister of Foreign Affairs  
Hon Tim Groser, Minister of Trade  
Hon Tony Ryall, Minister of Health  
Hon Jo Goodhew, Associate Minister for Primary Industries

**Date:** Thursday 29 August 2013

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**Whey protein concentrate response: contamination issue update 19**

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**Key points**

1. The diagnostic testing confirmed that the contamination is *Clostridium sporogenes* rather than *Clostridium botulinum*. *C. sporogenes* poses no food safety risk.
2. The Tracing and Verification report and results of diagnostic testing were publicly released yesterday. The focus is now on regaining market access and customer confidence and supporting the inquiries into the incident.
3. MPI has moved to remove its regulatory controls on affected products as quickly as possible.

### Diagnostic testing

4. We are developing a report on the full suite of tests (just under 200) and results that MPI has initiated and undertaken. As soon as it is ready, the report will be made available to overseas authorities, who are keen to receive comprehensive information on the diagnostic testing as soon as possible. We will also put a more easily digestible report on our website for the public.
5. A table summarising the diagnostic tests and their results is in Appendix 1.

### Trade and market access

6. 
7. We will be continuing to liaise with affected exporters to determine how quickly markets return to normal following the release of the diagnostic testing, and Tracing and Verification reports.
8. 
9. Appendix 2 provides a traffic-light status update for all markets.

### Removing regulatory controls

10. During the response:
  - the Acting Director General issued precautionary Statements under the Food Act 1981 and Animal Products Act 1999, advising against consuming potentially contaminated Nutricia products;
  - Animal Products Act Recognised Persons put in place regulatory holds on potentially contaminated Nutricia and Fonterra products; and
  - the Acting Director General issued Notices of Direction that prohibited exports of potentially contaminated Nutricia products.
11. The Acting Director General has issued a further Statement stating that there has been no *C. botulinum* contamination of products. He has also revoked his earlier Statements. MPI is in the process of removing the other regulatory controls as quickly as possible. Once all regulatory controls are removed, Fonterra and Nutricia will need to decide whether to release the product to market.

{Withheld under s6(a)}

**Security Level – Sensitive: Commercial in Confidence**

**Ministers' updates**

12. This update is the final aide memoire in this format. We will continue to provide you with regular information on the recovery of market access and consumer confidence, as well as any other issues as they arise.

**Minister / Minister's Office**

Seen / Referred

/ /2013

Declassified for Release 9 December 2014

# APPENDIX 1: Diagnostic tests and their interpretation

Test	Result	Interpretation	Predictor of toxicity	Laboratory	Results received
Biochemical and phenotypic (120 tests)	<i>C. sporogenes</i> / <i>C. botulinum</i> Group 1.	The bacterium is either <i>C. sporogenes</i> or <i>C. botulinum</i> Group I and is not another Clostridial species. This testing does not differentiate between <i>C. sporogenes</i> and <i>C. botulinum</i> Group I.	No	MPI Wallaceville	14/08/2013
16S rRNA sequencing (7 tests)	<i>C. sporogenes</i> / <i>C. botulinum</i> Group 1.	The bacterium is either <i>C. sporogenes</i> or <i>C. botulinum</i> Group I and is not another Clostridial species. This testing does not differentiate between <i>C. sporogenes</i> and <i>C. botulinum</i> Group I.	No	MPI Wallaceville	14/08/2013
Toxin real-time and conventional PCR tests (30 tests)	PCR negative for Group 1 toxin types A, B and F. Also negative for toxin types C, D and E.	Confirmed that toxin genes are not present for Group I toxin types A and B. Provisional that toxin gene for F is not present as no PCR positive control was available.	Presumptive negative	MPI Wallaceville	16/08/2013
Toxin ELISA (12 tests)	ELISA negative for toxin types C and D.	Confirmed that the bacterium does not produce toxin antigen for type C and D. Commercial ELISA not available for toxin types A, B, E and F.	Presumptive negative	MPI Wallaceville	20/08/2013
Next Generation Sequencing (2 tests)	Greatest homology to <i>C. sporogenes</i> . Nontoxin-nonhaemagglutinin gene not present. No reads mapping to primary toxin genes A, B, C, D, E, F and G.	Absence of the NTNH and toxin genes supports the PCR test results that the bacterium does not have the toxin genes present to produce the primary toxin types A, B, C, D, E F and G. This together with the genetic homology is presumptive for <i>C. sporogenes</i> .	Presumptive negative	MPI Wallaceville Massey University	21/08/2013
Mouse bioassay (12 tests)	Preliminary negative.	No evidence of the presence of a botulinum toxin-producing Clostridia species.	Presumptive negative	US Center for Disease Control and Prevention US National Veterinary Services Laboratories	23/08/2013
Mouse bioassay (12 tests)	Confirmed negative.	No evidence of the presence of a botulinum neurotoxin producing species of Clostridium in any of the cultures submitted.	Confirmed	US Center for Disease Control and Prevention US National Veterinary Services Laboratories	28/08/2013 27/08/2013