

BEFORE THE GREATER WELLINGTON REGIONAL COUNCIL

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTERS OF

An application under s88 to discharge contaminants to water, land and air associated with the proposed long-term upgrade and operation of the Featherston Wastewater Treatment Plant

APPLICANT

South Wairarapa District Council

**7th MINUTE OF COMMISSIONERS GINA SWEETMAN, JIM COOKE AND RAWIRI FAULKNER
HEARING PROCEDURES AND COMMISSIONERS DIRECTIONS
DATED 17 MAY 2019**

Minute of the Hearings Panel #7
Featherston Wastewater Treatment Plant
GWRC WAR170229

Introduction

1. Since its last minute setting out directions, the Panel has received:
 - a. The memorandum of the applicant dated 7 May 2019:
 - i. Seeking revisions to the timetable,
 - ii. Seeking legal advice relied on by the GWRC in its s42A report and comment on proposed conditions,
 - iii. Providing a response to our query on scope, relating to Mr Emms' query to the Panel, which in short was that Mr Emms' concerns fell within the scope of the application,
 - iv. Seeking the order evidence would be presented at the hearing,
 - v. Noting potential changes to the timing of Stage 2B, and
 - vi. Identifying the potential for a request to defer the closing of the hearing.
 - b. The memorandum of GWRC dated 8 May 2019:
 - i. Noting it would be responding to the issue of scope,
 - ii. Providing advice on the powers of the Panel,
 - iii. Providing its position on the order of evidence, and
 - iv. Seeking that the applicant make a decision now regarding the deferment of the hearing and noting that to do otherwise would incur significant time and cost issues for all parties.
 - c. The memorandum of the applicant dated 10 May 2019:
 - i. Seeking that the GWRC grants a further waiver under sections 37 and 37A to extend the time for the Panel's decision and the commencement of the hearing,
 - ii. Outlining reasons for the requested extension,
 - iii. Seeking the Panel defer the hearing, if GWRC do grant a waiver,
 - iv. Outlining how the applicant intends to address legal submissions, and
 - v. Responding to the GWRC's comments on the order of evidence.
 - d. The memorandum from DLA Piper, Counsel for GWRC, dated 13 May 2019, which concluded that the risk from pathogens is an issue that is outside the scope of the application, in response to Mr Emms' query.
 - e. The section 37 extension of time limit approved by GWRC on 15 May 2019; which extends the time for commencement of the hearing until September 2019 and completion of the hearing by 1 November 2019.
 - f. A letter from submitter Claire Bleakley dated 15 May 2019 seeking that the Panel clarify its terms and expected outcomes for consultation. This is appended to this minute.

Postponement of the Hearing

2. Having considered all of the above and particularly in light of the applicant's request and the GWRC's decision, the Panel hereby directs that the timetable set through previous directions be set aside and the commencement of the hearing postponed. The Panel will set a new date once other directions set out in this minute have been addressed.

Scope

3. Having considered the applicant's and GWRC's responses in respect of the concerns raised by Mr Emms in terms of scope, we prefer the GWRC's position that the risk from pathogens is an issue that it is out of scope and find so accordingly.

4. However, given the granting of the s37 by the GWRC and our setting aside the current timetable and postponing the hearing, rather than the Panel determine the process to follow, we direct that the applicant and GWRC discuss and propose to the Panel how this issue of scope is to be addressed. As part of this, the applicant is to address how it intends to undertake further consultation (albeit noting that this is not a finding that consultation will address the issue).

Matters to be addressed

5. The GWRC s37 extension of time raises a number of matters that GWRC considers are currently in issue. We agree that there are a number of relevant matters that would benefit further information being provided before or at the reconvened hearing. As part of this the Panel requests, pursuant to 41 and 41C of the RMA, that the applicant provides the following information:
 - a. An analysis of pathogens (bacterial and viral) in the Wastewater Treatment Plant before and after UV disinfection, which should be undertaken on at least three to four separate occasions by a competent laboratory.
 - b. A soil survey in site B in particular to provide certainty on soil types and identify whether there is any evidence of macropores that would cause short circuiting of irrigated wastewater.
 - c. Mr McBride's qualitative assessment of health risk be replaced by a quantitative microbial risk assessment (QMRA) with as many of the assumptions in the qualitative assessment as possible being replaced by measurements or robust estimates agreed by all experts.

New Timetable

6. Given the above and the time now available since the hearing has been postponed, the Panel also directs that the applicant and GWRC again confer and propose a new timetable to the Panel, that takes into account how it intends to address the issue of scope.

Updated Directions:

7. Pursuant to sections 41 and 41C of the RMA, the Hearings Panel:
 - a. Sets aside the previous timetable and postpones the hearing of this application that was due to commence on Monday 27 May 2019.
 - b. Directs that the applicant and the GWRC respond to the Panel by no later than 5pm Friday 7 June 2019 to outline how the matter of scope is proposed to be addressed.
 - c. Directs the applicant within the same timeframe as b above, to set out how it intends to undertake further consultation.
 - d. Directs that the applicant addresses the matters set out in the GWRC s37 extension of time and those set out by the Panel in 5 above, the timing of which is to be set out in the timetable required under e below.
 - e. Directs that the applicant and the GWRC respond to the Panel by no later 5pm Wednesday 19 June 2019 to propose a new timetable. This timetable will be largely informed by b, c and d above.
8. In terms of the above Directions, any response shall be provided to GWRC electronically by email or be made available for downloading from the GWRC website <http://www.gw.govt.nz/Featherston-WWTP/>.

Correspondence

9. Any correspondence to the Hearings Panel should be directed through notifications@gw.govt.nz.

A handwritten signature in blue ink, appearing to read 'Gina Sweetman', is displayed on a light blue background.

Gina Sweetman
Independent Commissioner – Chair
For and behalf of the Hearings Panel

Attachment One – Letter from Claire Bleakley

15.5.2019

Dear General Manager of Environmental Services,

I have been advised of a further delay in the latest memo written on the 15 May 2019 -
Extension of time limit: Resource consent WAR170229

Please can clarification be given as to what the GWRC expects to have as an outcome of this time extension?

I note that the Regional Council recognises that “this further extension request does cause delay to the process and that submitters will be affected by the delay in the hearing of the application and its ultimate determination”.

I am concerned that there has been no direction given to SWDC council and submitters as to what the Panel considers further consultation. I am apprehensive that the recommendation will be taken as being required to consult only with the community of affected landowners whose bores are potentially subject to contamination.

This extension of time directly affects me and due to the SWDC inaccuracy and omission of vital information the delay is distressing. I request that the panel clarifies that consultation must include the wider Featherston community as we are affected parties due to the concern we have over the area and environment we live in.

The conditions for the extension of time refers to the new information the community has received on the potential for bore contamination. It does not include those whose livelihoods depend on tourism, nor the recreational and environmental activities that are part of the community. Nor does it consider the cumulative, future, permanent adverse effects (RMA s:3) around the environment, land, soil and water bodies; the long-term effects on the wetlands and significant water and land bodies; even how large the aquifer is that could be polluted for the future generations. There is no data on the possibility of migration of any pollution across the whole aquifer affecting a larger community than the immediate one surrounding the proposed irrigation fields.

The Mayor has been quoted in the Times Age paper today (15.5.19) as saying that the solution presented by the SWDC in the application is the best one. Therefore, if the SWDC understands that the direction to consult is to try and convince the community that their Resource consent application WAR17229 solution is the only way, I do not agree with this extension of time.

I request under section 37 (2) (b) that the Panel clarify its terms and expected outcomes for consultation and not leave it to the SWDC to consult with those it thinks fit.

Sincerely,

Claire Bleakley
Submitter 85.
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