



File No: WAR170229 [34616, 34617, 34618, 34619]  
15 May 2019

## **Extension of time limit: Resource consent WAR170229**

### **(Sections 37(1), 37A(2)(b) and 37A(5) of the Resource Management Act 1991)**

#### **Background**

The applicant has requested that the Regional Council defer the commencement of the hearing of this application and has requested the Regional Council use its powers under the Resource Management Act 1991 (the Act) to extend the time for commencement of the hearing until September 2019 (see paragraph 1 of the Memorandum of Counsel dated 10 May 2019).

The reasons provided by the applicant to support its deferment request are:

- It would avoid further unnecessary legal and planning debate as to the meaning and effect of provisions of the Proposed Natural Resources Plan (PNRP) - ie, whether the activity is non-complying or discretionary (paragraphs 4 and 5 of applicant's memorandum);
- If the hearing proceeds now and a decision is issued, the provisions of the PNRP may then change by the time any appeals are heard, which is undesirable (paragraph 6 of applicant's memorandum);
- It would avoid the need for a reconvened hearing, if the PNRP provisions change (paragraph 7 of applicant's memorandum); and
- It would allow for further consultation with the community (including Maori/iwi representatives) and with GW officers.

#### **Assessment**

In making a decision on this application, the Wellington Regional Council is very aware of the time already elapsed since this resource consent application was filed and the previous extensions of time limits granted on 6 September 2018 and 3 December 2018 (which allowed for the commencement of the hearing by the 18 March 2019 and 7 June 2019 respectively). It has carefully considered this further extension of time in light of the evidence that has been filed by all of the parties and what benefits could be gained (for all parties) by allowing further time before the hearing commences. It considers the potential benefits outweigh the disadvantages of a further extension. In particular:

- It is clear that one of the key areas of disagreement between the Regional Council and the applicant is the activity status of the proposal and the additional matters that need to be addressed, if the activity is non-complying (ie, the gateway tests) and as part of that, what the relevant objectives and policies are in the proposed plan. This is a matter that may be impacted by the decisions on the PNRP, which are due by 31 July 2019. If this issue is clarified as a result of the decisions on the PNRP then this will reduce time and cost relating to determining this matter;

- It is also clear that another area of disagreement between the Regional Council and the applicant is the level of information provided by the applicant in relation to the effects of discharge to land, particularly in relation to groundwater. If the applicant could provide this information and discuss further with Council experts, then this issue may be able to be resolved (or at the least, the Regional Council experts could provide an opinion which they currently cannot due to information deficits). Again, will result in less time and cost for all parties and would be helpful to the Panel in making its determination; and
- Finally, there is also disagreement between the Regional Council and the applicant in relation to scope (as set out in the memorandums of the applicant and the Regional Council dated 7 May 2019 and 13 May 2019). In particular, now that there is an identified public health risk arising from pathogen spread through the groundwater, is that within scope of what was applied for? This is a fundamental procedural issue that needs determining and further time may allow the applicant to resolve this issue.

These are all matters the Regional Council has considered and weighed in deciding whether it is appropriate and fair to all those involved in this hearing process, to defer its commencement to see if any of these issues can be resolved or clarified.

In making its decision, the Regional Council has taken into account the following matters, as required by section 37(A)(1) of the Act:

- The interests of any person who the Council considers may be directly affected by the extension; and
- The interests of the community in achieving adequate assessment of the effects of the proposal; and
- The Council's duty under section 21 of the Act to avoid unreasonable delay.

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. However, the Regional Council considers that, on balance, this deferment will achieve a potential overall benefit to submitters as the applicant will have further time to address the effects which are related to submitters concerns, and give the submitters a better understanding of how they are affected and how this could be mitigated. It may also reduce the length of the hearing if some of these matters can be resolved or clarified and that is a time and cost benefit to all parties.

The Regional Council also considers that this extension will provide an opportunity for the applicant to ensure there is an adequate and complete assessment of effects of the proposal. That is in the interests of the community.

Finally, it is noted that the applicant will also be affected by the delay, but it has requested this deferment (see memo dated 10 May 2019) and therefore agrees to the extension in terms of s37(A)(5) of the Act.

## **Decision**

The General Manager, Environmental Management, Wellington Regional Council, acting under authority delegated by the Wellington Regional Council, hereby further extends the time limit to **complete** the hearing on above resource consent to 1 November 2019 under sections 37(1), 37A(2)(b) and 37A(5) of the Act.

The reasons for the extension are as follows:

- So that the issue surrounding scope and whether the amended description of pathogen risk represents a change or amendment to the activity can be resolved and a course of action determined by the Panel;
- So that the issues surrounding pathogens can be adequately addressed by the applicant and it can have discussions with those affected;
- So that the information on groundwater that was agreed in the JWS can be provided to GWRC (for Groundwater and Related Wastewater and Land Treatment Expert Caucusing, dated 20/12/2018) by the applicant and discussed further among the experts;
- To allow for further discussions to occur between other experts, particularly surrounding the outstanding areas of disagreement and areas where more information is required;
- To allow SWDC further time to consult with submitters and the community regarding their concerns;
- To allow the application to be considered under the decisions version of the PNRP, which will have efficiencies in terms of process and decision making.



.....  
General Manager, Environmental Management