



PUBLIC EXCLUDED

Report PE 03.570
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Committee Rural Services and Wairarapa
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Masterton Interim Sewage Discharge Consent Condition

1. Purpose

To advise the Committee of issues relating to one of the resource consent conditions for the Masterton interim sewage discharge consent.

2. Public Excluded

Grounds for exclusion of the public under Section 48(1) of the Local Government Official Information Act 1987 are that public conduct of the whole or relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reasons for disclosure exist – that is to prejudice the maintenance of the law, including the right to a fair trial.

3. Background

Earlier this year the Masterton District Council was granted a resource consent for continuing discharge from their existing sewage treatment plant. This consent was for a period of seven years and became operative on 17 January 2003. There were a large number of conditions attached to this consent.

Condition 15 stated “*The consent holder shall make a decision on the long term upgrade option, following consultation and technical investigations, no later than two years from the commencement of this consent*”.

The Masterton District Council have advised by letter (Attachment 1) that they may not be able to meet this condition because of delays associated with their Public Works Act application to obtain access to the Forbes property for testing purposes. However, they have also advised that the current delays are not expected to affect the overall project completion timetable of seven years or less.

The District Council's letter makes reference to earlier correspondence that occurred around the time of the granting of the consent. At that time the District Council was contemplating appealing the resource consent decision on the basis that this particular Condition 15 was unenforceable. Copies of relevant correspondence from that time are attached for the information of Committee members (Attachments 2, 3 & 4).

4. Discussion

Officers are of the view that the District Council's opinion regarding Condition 15 being unenforceable is correct. We are under the impression that the Hearings Commissioners included this particular condition in order to satisfy some of the submitters, and to indicate to the District Council that prompt and visible progress needed to be made on the long-term upgrade.

At this stage it is not possible to know whether Condition 15 will be met by the District Council or not. They have indicated their intent to comply with all conditions, if at all possible. However, they are also indicating that aspects of the legal process are outside their control.

A letter has been sent to the District Council advising that the circumstances of this delay are considered to be a *force majeure* event that is outside of their control. Therefore no action will be taken to enforce or vary the consent condition. However, this does not diminish in any way the requirements to complete the plant upgrade within seven years of granting of the consent.

This matter is being brought to the Committee's attention as previous matters leading up to the granting of this resource consent were quite contentious and subject to frequent media reporting. Already one of the submitters has written to the District Council about this matter (Attachment 5).

The District Council has indicated they are willing to give the Rural Services & Wairarapa Committee a briefing on their progress with their sewage treatment upgrade plans. The Committee may like to invite the District Council to do this at a future meeting.

5. Recommendation

- 1. That the Committee notes that the Masterton District Council has advised of potential difficulties in meeting condition 15 of their operative sewage discharge consent and that officers are not able to enforce this particular condition.*
- 2. That Masterton District Council be invited to brief a future meeting of the Committee on progress with their sewage treatment upgrade.*

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