

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

**6th MINUTE OF COMMISSIONERS GINA SWEETMAN, JIM COOKE AND RAWIRI FAULKNER
HEARING PROCEDURES AND COMMISSIONERS DIRECTIONS
DATED 6 MAY 2019**

Minute of the Hearings Panel #6
Featherston Wastewater Treatment Plant
GWRC WAR170229

Hearing Procedures

1. The Panel has now received all Greater Wellington Regional Council (GWRC), applicant and submitter expert evidence.
2. Having read through the evidence and seen correspondence from the GWRC, the applicant and submitters, the Panel is of the view that their consideration of the application will benefit from a number of matters occurring before the hearing commences. The Panel also considers that there is benefit from tailoring the hearing process itself. We considered carefully whether to request party input into these revised timings. Due to the limited time before the hearing commencing, we have chosen not to do so; however, in setting these timeframes and setting these directions we have been mindful of ensuring natural justice and fair process for all parties involved.
3. Firstly, the Panel requests that all parties (the GWRC reporting officers, South Wairarapa District Council as the applicant, and submitters) calling expert witnesses liaise amongst themselves in order to facilitate their respective experts caucusing on matters relevant to their specific areas of expertise. The aim of the caucusing is to identify areas of agreement and disagreement which can then be addressed at the hearing.
4. Secondly, the Panel notes that the GWRC s42A report has referred to legal advice informing some of the evidence contained within. The applicant has also raised this with the GWRC. The GWRC has suggested that this is best addressed through their legal submissions to the Panel and has suggested that all legal submissions (GWRC's, the applicant's and submitters) be filed by the 17th May. The Panel considers that there needs to be time for the review of the draft conditions (referred to below), so has set a date of 20th May for all legal submissions to be provided. The Panel notes that legal submissions will be able to be updated at the hearing to address any matters arising from the expert conferencing and from review of the other legal submissions.
5. Thirdly, the Panel notes that the GWRC s42A report does not provide any response to the applicant's recommended conditions of consent. The Panel considers it appropriate that this be provided in advance of the expert caucusing and the hearing commencing, to provide all parties the opportunity to review their response. The GWRC has sought that these be provided to parties by the 17th May. However, to assist with the expert caucusing, the Panel considers that these need to be provided by the 15th May 2019.
6. Finally, the GWRC has also requested that they be provided the opportunity to present immediately after the applicant does, covering legal submissions and five expert presentations. They then seek to be able to reply after submitters presentations to any new matters raised by submitters or the applicant during the course of the hearing, which is the standard procedure. This would be followed by the applicant's right of reply, which they may choose to provide at the hearing or at a later agreed date.
7. Given the complexity of the application, the Panel considers that this order of proceedings will be helpful for all parties involved in the hearing. The applicant and GWRC have indicated that

they will need approximately three days to present, starting from midday Monday 27th May 2019 (following a site visit for Commissioners in the morning). Submitters are requested to liaise with notifications@gw.govt.nz should this impact on their availability to appear before the Panel.

8. Having considered all of the above, the Panel has updated the timetable in advance of the hearing and issued updated directions to reflect these:

Date / deadline	Process requirements
10 May 2019	Any supplementary evidence by GWRC if required
10 May 2019	Applicant's response to Submitter's expert evidence
15 May 2019	GWRC to provide comments on applicant's draft recommended conditions
16 -22 May 2019	Expert caucusing to occur
20 May 2019	Legal submissions of all parties to be filed
23 May 2019	Expert caucusing statements filed
27 May 2019	Hearing to commence

Updated Directions:

9. Pursuant to sections 41 and 41C of the RMA, the Hearings Panel requests that any evidence in reply from the applicant and GWRC be provided electronically to notifications@gw.govt.nz, no later than 5pm on Friday 10th May 2019.
10. The Hearings Panel requests that the next working day following receipt of any such evidence received pursuant to Direction 9, GWRC provides a copy to all other parties to these proceedings by way of email, directing the parties to the GWRC website and advising that hard copies are available at GWRC offices.
11. Pursuant to sections 41 and 41C of the RMA, the Hearings Panel directs that the GWRC provide comments on the applicant's draft conditions electronically to notifications@gw.govt.nz, no later than 5pm on Wednesday 15th May 2019.
12. The Hearings Panel requests that the next working day following receipt of any such evidence received pursuant to Direction 11, GWRC provides a copy to all other parties to these proceedings by way of email, directing the parties to the GWRC website and advising that hard copies are available at GWRC offices.
13. Pursuant to sections 41 and 41C of the RMA, the Hearings Panel directs that all parties calling expert witnesses liaise amongst themselves in order to facilitate their respective experts caucusing on matters relevant to their specific areas of expertise. This expert caucusing is to occur between Thursday 16th and Wednesday 22nd May 2019. The expert caucusing statements

are to be provided electronically to notifications@gw.govt.nz, no later than 4pm on Thursday 23rd May 2019.

14. The Hearings Panel requests that no later than 10am the next working day following receipt of the statements received pursuant to Direction 13, GWRC provides a copy to all other parties to these proceedings by way of email, directing the parties to the GWRC website and advising that hard copies are available at GWRC offices.
 15. Pursuant to sections 41 and 41C of the RMA, the Hearings Panel directs that any legal submissions be filed no later than 5pm Monday 20th May 2019.
 16. The Hearings Panel requests that the next working day following receipt of any legal submissions received pursuant to Direction 15 GWRC provides a copy to all other parties to these proceedings by way of email, directing the parties to the GWRC website and advising that hard copies are available at GWRC offices.
 17. In terms of the above Directions, the reports, evidence, statements and legal submissions 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/>. Hard copies of the evidence should only be provided on request.
 18. Pursuant to s41C(1) of the RMA, the Hearings Panel directs the hearing will be conducted in the following manner:
 - The section 42A report(s) and all pre-circulated evidence, statements and reports will be taken as read;
 - The applicant will present their case first;
 - The GWRC will then present their legal submissions and expert evidence;
 - Submitters will then present their submissions and evidence;
 - The GWRC will have the opportunity to respond to any new evidence raised to date;
 - The applicant will have the right of reply.
- Expert witnesses:
- The applicant or submitter that have provided the pre-circulated expert evidence is to call the witness in person;
 - The expert witness should be introduced and asked to confirm their qualifications and experience;
 - The expert witness should be asked to confirm the matters of fact and opinion contained in the brief of evidence;
 - The expert witness will then be given an opportunity to draw to the attention of the Hearings Panel the key points in the brief. No new evidence shall be introduced, unless it is specifically in response to matters raised in other pre-circulated briefs of evidence supplied by another party – in such cases the new evidence shall be presented in written form as an Addendum to the primary brief of evidence and it may be verbally presented by the witness. If there is any variation between what the witness says and what is in the brief of evidence, the Hearings Panel will assume that the written brief is the evidence unless the content of the brief is specifically amended by the witness;
 - The witness may then be questioned by the Hearings Panel.

19. We are required to conduct the public hearing in a manner which is appropriate and fair, but without unnecessary formality. Subject to adequate notice, we will receive evidence written or spoken in Te Reo Māori.
20. There is no right of cross-examination.
21. We may choose to call all experts who have prepared a joint expert witness statement to appear jointly before us. We will indicate this in advance if this is to occur.
22. Non-expert evidence (submitter lay evidence) should be tabled and read aloud on the day that the relevant party appears at the hearing.

Correspondence

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



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