Attachment 1 to Report PE 03.570



MASTERTON DISTRICT C

SERVING THE COMMUNITY

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WELLINGTON REGIONAL. COUNCIL

15 SEP 2003

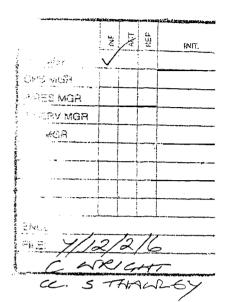
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12 September 2003

In reply please quote:

The Divisional Manager Greater Wellington Regional Council PO Box 41 **MASTERTON**

Dear Colin,



RE: MASTERTON DISTRICT COUNCIL - WASTEWATER UPGRADE

For your information, the Council has been advised that the District Court is not able to set a hearing date this year on the Council's application under the Public Works Act in respect of access for tests relating to the wastewater treatment and disposal upgrade at Homebush. The Council confirmed its readiness to proceed with a 24/25 November fixture date (being the only date available this year). However, Counsel for Mr Forbes would not confirm that date until late August (due to involvement in other proceedings), and the District Court was not prepared to wait until this time. Consequently the fixture date was allocated to another party.

The Council is extremely frustrated at this delay, which is not of its making. The consequences of the delay in dealing with the Council's application are not expected to affect the intended completion timetable of seven years. However, the delay may affect the Council's ability to complete its determination of the preferred solution within the initial two year period of the interim Resource Consent (condition 15).

Condition 15 requires the Council to make a decision in relation to the long-term upgrade, following consultation and technical investigations. The delay in being allocated a fixture date will not impact on the Council's ability to carry out technical investigations within the two year time frame. However, the time available to the Council to consult with the community (including in relation to the results of those investigations) will be limited. In this regard, it may be that condition 15 needs to be changed to allow an extension to the period of time available for consultation. The Council will reassess this matter in the New Year, after a fixture date has been allocated.

The 16 January 2003 letter from Simpson Grierson to Greater Wellington recorded the view that condition 15 is unenforceable. Greater Wellington may in the interim wish to consider whether condition 15 is enforceable, and if so, whether it would be enforced. If the answer to either question is "no", then there would be no purpose in applying to vary the condition.

The Council has considered the option of having the proceedings transferred to the District Court in Wellington. However, I understand that the PWA application is top of the



list for a two-day fixture in 2004, and such an application would not bring on a hearing at an earlier date.

So far as the investigation consent applications are concerned, the Council is content to leave these on "hold" given your indication of 17 July 2003 that they will be processed on a non-notified basis if the PWA approvals are granted.

The Council will keep you informed of any developments.

Yours faithfully

Wes ten Hove

CHIEF EXECUTIVE OFFICER