

BEFORE THE GREATER WELLINGTON REGIONAL COUNCIL

IN THE MATTER OF **the Resource Management Act 1991**

AND

IN THE MATTER 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

**MEMORANDUM ON BEHALF OF
GARRICK EMMS AND MARGUERITE TAIT-JAMIESON**

DATED: 12 November 2018

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May it Please the Panel:

1. This memorandum is filed on behalf of Mr Garrick Emms and Mrs Marguerite Tait-Jamieson (the submitters). They are submitters in respect of the South Wairarapa District Council (SWDC) resource consent application for Featherston Waste Water disposal scheme. This memorandum is filed in response to the Applicant's memorandum of 8 November 2018.

Further prejudicial delay

2. The submitters, are increasingly concerned about delays in bringing this matter to hearing. The Applicant does not appear to have made any effort to comply with the revised timetable directions¹ that were proposed by the Applicant and confirmed by the Chair on 6 September 2018. This is the second hearing date that the Applicant has sought to vacate. If the Applicant is not able to meet the deadlines (which the Applicant asked for), and is clearly not in a position to progress to hearing at this point, the Applicant should suspend the application under s91A RMA, and place it "on hold", rather than continuing to seek and be granted timetable extensions under the waiver provisions. In the submitters' view, seeking multiple extensions is an improper use of the waiver provisions.
3. The suspension provisions s91A-C RMA rightly restrict the time that an application can be put "on hold" by the Applicant before the Applicant is required to withdraw that application or proceed to a hearing (s91B and C). This 130 working-day period has been set to avoid unreasonable delay, and stress and uncertainty that these applications can have on affected parties. The Panel should think very carefully about the prejudice caused by further delays, before granting the Applicant's further extension request, particularly given that this will have the effect of exceeding the 130 working-day timeframe in which an application can be suspended. The effect on submitters of further delays, means that their lives and use of properties affected by the proposal remain "in limbo" while the application is undecided, should be taken into account. The impact of the delay on these parties is also

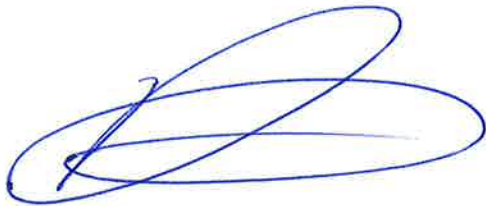
¹ There was no formal advice to submitters of the Applicants intention to continue with the Application. There has also been no further information filed by the Applicant – the date for that to be done was 26 October 2018 (as per paragraph 19 of the 6 September 2018 directions).

compounded by the Applicant's earlier resource consent application that it advanced in 2015 and then abandoned.

Applicant's Proposed Revised Timetable

4. The submitters also have concerns regarding the Applicant's proposed timetable changes. The Application is voluminous and of a very technical nature. It is likely that large amounts of new information are going to be traversed in evidence. Key components of the proposal have changed since the Application was notified but no further technical information has been provided as to the effects of these changes (despite the Chair's direction).
5. The current timetable provides ample time for submitters to digest and seek advice on that evidence as it provides for the Officers Report on 30 November 2018 and Applicant's evidence on 14 December 2018, providing 10 weeks (over the Christmas break) for this. The Applicant's proposed timetable now suggests only 10 days. While this is the statutory minimum, given the size, complexity and technical nature of the Application and likely evidence filed by the Applicant, it is respectfully requested that no less than a month is provided.
6. The 6 September 2019 Minute at paragraph [20] also directed all parties intending to call experts undertake expert conferencing for the weeks of 1 March 2018 and planning 8 March 2019. This has been removed from the timetable suggested by the Applicant. The submitters are considering engaging expert witnesses and very much believe that expert conferencing in the manner directed by the Chair would be beneficial in this case.
7. The Applicant has, to date, refused to participate in pre-hearing meetings with submitters. Therefore, there has been very little opportunity for technical discussions to occur. The submitters are concerned that they will be disadvantaged if their technical advisers are effectively frozen out of closed door expert discussions between the Councils. It is respectfully requested, that the original intention of the Direction that two sessions of conferencing occur *after* the evidence is filed that include *all parties'* witnesses (and ample time for this to occur), is retained.

8. The Applicant's revised proposed timetable references joint statements (Freshwater ecologists) 30 November 2018 and (Groundwater) 20 December 2018, between the Applicant and GWRC experts seems to suggest that the Applicant has ignored the Chair's directions and has undertaken conferencing with the Regional Council in isolation at a different part of the process. The submitters consider that they have been excluded and are prejudiced and disadvantaged by the Applicant's attempt to "flip" the timetable.
9. It is respectfully requested that in the event that the Panel is minded to grant the extension request that the Panel issue a direction for a revised timetable which addresses these concerns.



H Rennie QC / P D Tancock

Counsel for Mr Emms