

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: 20 November 2018

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May it Please the Panel:

1. This memorandum is filed on behalf of Mr Garrick Emms and Ms Marguerite Tait-Jamieson (the submitters). This memorandum is in response to the Applicant's and GWRC's response on timetable. The submitters wish to make the following further comments.

Prejudice to submitters of further delays

2. The submitters continue to have serious concerns about delay. SWDC has now had extensions on its consents since 2012 with which to find a viable solution for its wastewater treatment. It has not done so. Mr Emms and Ms Tait-Jamieson who are the owners and operators of the historic luxury accommodation and event venue, Longwood, have been trying to sell their property, they have had an offer withdrawn because of the uncertainty, found it difficult to obtain future bookings, retire, or develop their property further until such time as the Application is determined. Buyers, guests, those booking conferences or weddings etc have all been put off by the prospect that treated effluent will be discharged adjacent to Longwood and will continue to do so until the matter of these consents is resolved.

Further comment on proposed timetable

3. The Applicant seeks a second round of waivers and third round of changes to the timetable. However, counsel's response in respect of the further groundwater and ecology information does not instil any confidence that the Applicant will be able to adhere to its third round of proposed timetable amendments that it is now proposing. While a number of excuses have been made about the importance of who requested this data, the fact remains that the Applicant has clearly made a decision that it wishes to use this data to progress its Application.

Application should be put on hold

4. The submitters reiterate their comment that the most appropriate course of action in these circumstances, where progressing the application is dependent on the Applicant obtaining further information, is that the Application be put on hold while the Applicant undertakes further monitoring etc. Once it has obtained this information, and is able to meet a reasonable

timetable to progress to hearing in the usual way, the processing of the application should resume. Waivers and extensions to the timetable should not be granted where the Applicant is already questioning their ability to meet this timetable and appears to be considering alternative options for wastewater treatment and disposal (for example, the reported Golf Course acquisition and/or land based discharge).

Comments regarding submitters' experts

5. The submitters have sought that the original directions of the Panel's 6 September Minute 2 timetable be retained to allow participation of any experts that they wish to call in expert conferencing in advance of the hearing. In response to counsel for the Applicant's comments, there is no obligation for submitters to inform the Applicant of who those experts are. At this stage, and in any event, they are entitled to see the Officers Report and the Applicant's evidence in advance of confirming their decision as to which experts to call.
6. In addition, the submitters are opposed to counsel for the Applicant's suggestion that the conferencing occur *during* the hearing. This does not allow for submitters and their experts to refine the issues for hearing, or for the Panel to be able to hone in on the areas of disagreement. Submitters only get an opportunity to submit once, and therefore would in the usual course be unable to address the Panel on subsequent conferencing. The submitters preference is that conferencing directions remain as directed by the Chair. Should the Applicant be unwilling to meet the cost of its experts travelling to conference, they can always join via phone.

Additional matter of concern

7. Counsel for the Applicant's memoranda in seems to anticipate that there may be further deferral of this matter until after the PNRP decision in July 2019. The submitters have recently been informed that SWDC are now considering a short term 5 year consent option of discharge to land. A recent SWDC meeting Agenda item (**attached**), briefs Councillors that:


'The proposed Natural Resources Plan (PNRP) included some definitions that have been interpreted by Regional Council in a way that defines our discharge as a "new discharge."

The PNRP has a rule which prohibits "new" discharges.'

8. Counsel has not been privy to the PNRP hearings and was previously under the impression that the area of disagreement related to applicability of the non-complying activity status to this application. However, if this is the case and the proposed activity for which SWDC are seeking consent for is prohibited under the proposed plan, a serious question arises as to whether SWDC should be seeking and whether the Regional Council should be processing the consent at all. As the Chair will be well aware, prohibited is defined in the RMA as being an activity for which consent is not available. In light of this, in the submitters' view, there is no obvious way of lawfully progressing the consent application at this time.

Directions sought

9. The submitters seek the following directions:
- i. That the Panel request that the Application/GWRC confirm whether or not the proposal is seeking consent for an activity which is prohibited under the PNRP and consider the impact of that on the Panel's ability to process these consents;
 - ii. That for the reasons set out in recent memoranda that the Panel decline to grant a further waiver or extension to the timetable sought by the Applicant; and
 - iii. That if the Panel are minded to grant a waiver/extension of timetable, that the Panel provide for the suggested changes to the proposed timetable suggested by submitters in recent memoranda.


PP H Rennie QC / P D Tancock
Counsel for Mr Emms

SOUTH WAIRARAPA DISTRICT COUNCIL

21 NOVEMBER 2018

AGENDA ITEM B2

FEATHERSTON WASTEWATER SHORT TERM CONSENT

Purpose of Report

To discuss the option of applying for a short term consent to discharge to land at the Featherston wastewater Treatment site.

Recommendations

Officers recommend that the Council:

- 1. Receive the Featherston Wastewater Short Term Consent Report.*
- 2. Resolve to lodge a consent application to enable discharge of treated wastewater to the southern block on the Featherston land.*
- 3. Note that this is unplanned expenditure, and that expenditure can be taken from within existing budgets, and that there will probably be some savings in construction costs.*

1. Executive Summary

SWDC lodged a resource consent application on 28 February 2017 for the discharge of treated wastewater to land at the Featherston Wastewater Treatment site.

This application included conditions allowing discharge to continue to Donalds Creek until sufficient infrastructure had been built to exit Donalds Creek.

The Proposed Natural Resources Regional Plan (PNRRP) included some definitions that have been interpreted by the Regional Council in a way that defines our discharge to land as a "new" discharge.

The PNRRP has a rule that prohibits "new" discharges.

Our discharge point remains in exactly the same place as it is now, the concentrations of the discharge will remain the same as it is now.

The only change is the volume is reduced because it is going to be applied to land.

Obviously we disagree with this interpretation.

The result of these discussions has been that there is a delay in the hearing until April 2019.

2. Discussion

2.1 Hearing and decision

The result of the matters raised above is that the hearing of our application has been delayed until April 2019.

The hearings panel may well delay their decision until after the PNRRP has been finalised, thus clarifying whether our discharge is "new" or not.

There could be appeals against any of the PNRRP clauses which could further delay matters.

There could be appeals against the panel's decisions around our application.

Therefore it could be between 3 months and, say, 18 months to two years before we have an operational consent.... Or longer.

2.2 Council Policy

SWDC policy is for the discharge of treated wastewater to go to land.

We have not been able to achieve this to date at the Featherston site, despite having the land, and planning completed.

We need a consent to enable us to reach our goals.

2.3 Short Term Consent

In order to meet SWDC goals, it is proposed to lodge a resource consent application to discharge treated wastewater to land, for a period of up to five years.

This differs from our current application which is simply an application to discharge to land, which differs from our current consent application which has to take into account our discharge to water.

Discharge of treated wastewater to land is a complying activity under the current plan, accordingly, as long as we meet certain conditions this should be non-notified.

The short term consent would expire when the new, long term consent, is issued.

It is proposed the consent application would be to the land that already has an irrigation system in place. This will be approximately 40Ha of this land initially due to boundary constraints – we want to make this application as straight forward as possible.

This application will allow a significant volume to be irrigated to land the summer period, probably commencing late January / early February, but also into the shoulder period depending on weather conditions.

2.4 Costs

We have had indicative pricing to lodge the application of circa \$50,000.

If we were to proceed straight away, we can amend the existing contract we have for the construction of the new wastewater main from Featherston to the treatment ponds to include the pipework and other work require to link to the treatment plant to the existing irrigation.

We estimate there could be savings in contractor set up, and tendering of up to \$20,000 or \$30,000

2.5 Benefits

The benefits of acquiring a short term consent are that we commence irrigation to land much earlier than anticipated.

An additional benefit is that we will be sampling the impact of the discharge, and this will inform a significant part of our main consent.

2.6 Land Area

Appendix A identifies the area of land that would be the subject of this consent. In the first stage we would be irrigating to approximately 40ha. We may be able to irrigate to additional land with a variation to that consent.

3. Appendices

Appendix 1 – Area of land that would be the subject of this consent.

Prepared By: Paul Crimp, Chief Executive Officer

**Appendix 1 – Area of land
that would be the subject of
this consent**

