

# MINUTE OF HEARINGS COMMISSION

## T J and J A DRISCOLL: APPLICATION 20181765

### DIRECTIONS FOR CIRCULATION OF EVIDENCE

#### Introduction

1. Pursuant to Section 34A of the Resource Management Act 1991 ('RMA'), Bob Nixon (Chair) and Bianca Sullivan (Independent Commissioner) have been jointly appointed by Environment Southland ('the Council') to hear and decide the resource consent applications lodged by TJ & JA Driscoll ('the Applicant') relating to a dairy farm at 266 O'Shannessy Road, Winton.

#### Hearing details

2. A hearing date has been set for **Monday 3 February 2020**, commencing 9:00 am at the Council's Invercargill offices (corner North Road and Price Street, Waikiwi, Invercargill). These details will be confirmed through a notice of hearing under the section 101 of the RMA, which will be issued at a later date by Ms Lacey Bragg, the Council's Consents Coordinator.
3. It is anticipated that the hearing will take no longer than one day, however additional time is set aside on the morning of Tuesday 4 February 2020 if required.

#### Circulation of evidence

4. Section 103B requires the consent authority to provide any report prepared under section 42A of the RMA at least 15 working days before the hearing; the applicant must provide briefs of evidence to the consent authority at least 10 working days prior to the hearing; and any expert evidence being called by submitters must be provided at least 5 working days prior to the hearing.
5. Considering this, under section 41C we direct the following.
  - a) The Council's s42A report and any accompanying technical report(s) are provided to the parties by **Monday 13 January 2020**. For the avoidance of doubt, the s42A report should include draft conditions irrespective of the Council officer's recommendation.
  - b) The Applicant's briefs of expert evidence are provided electronically to the Council's Consents Coordinator, Lacey Bragg, by **12 noon on Monday 20 January 2020**. Any amendments to the application that are made in the Applicant's evidence should be clearly identified.
  - c) The applicant's briefs of evidence will be provided by the Council to all parties electronically either directly by email, or by an email directing the parties to a link on the Council's website, by no later than **5.00 pm on Monday 20 January 2020**.
  - d) Any submitter who intends to call expert evidence is to provide briefs of that evidence electronically to the Council's Consents Coordinator, Lacey Bragg, by **12 noon on Monday 27 January 2020**.

- e) Any submitter's briefs of expert evidence will be provided by the Council to all parties electronically either directly by email, or by an email directing the parties to a link on the Council's website, by no later than **5.00 pm on Monday 27 January 2020**.

### **Structure of the Hearing**

6. All pre-circulated evidence will be read by the Hearing Panel in advance, with that evidence being taken as read at the hearing. All parties (Applicant, submitter(s) and the reporting officer(s)) will be given the time they require to adequately present their views. The main reason the RMA directs pre-circulation of evidence is to minimise the time required for all parties to be present at the hearing itself. This expedited process will not, however, be at the expense of any party's ability to fully participate in the process.
7. The Hearing Panel expects the hearing to be conducted in the following manner:
- i. each witness whose evidence has been pre-circulated may read a brief summary of their evidence that highlights the key points and conclusions;
  - ii. the applicant's expert witnesses may also provide written rebuttal evidence on evidence lodged by submitters;
  - iii. each witness should be introduced and asked to confirm his or her qualifications and experience;
  - iv. No new evidence should be introduced, unless it is specifically in response to matters raised in other pre-circulated briefs of evidence supplied by another party;
  - v. each witness may then be questioned by the Panel;
  - vi. non-expert evidence, including any lay evidence or legal submissions, should be tabled and read aloud on the day that the relevant party appears at the hearing.

### **Site visit**

8. The Hearing Panel intend to undertake a site visit on Tuesday 4 February. The parties will be invited at the hearing to suggest areas to which they would like the Panel to pay particular attention.

### **Other matters**

9. While not strictly required for Council hearings, it is expected that *all* expert witnesses are to comply with Section 7 (Expert Witnesses) of the Environment Court's Practice Note 2014 in both the preparation of their evidence or in giving any oral evidence at the hearing. It is asked of the parties, to remind their expert witnesses that they have an overriding duty to assist the Panel impartially on relevant matters within their area of expertise and that they must not be an advocate for the party who engages them. The latest version of the Environment Court's Practice Note can be found at <https://www.environmentcourt.govt.nz/about/practice-note/>.
10. There should be no direct contact between the Hearing Panel and the parties. All communications must be via the Council's Consents Coordinator, Lacey Bragg. If any party wishes to seek further clarification in relation to this Minute or the hearing process please contact Ms Bragg in the first instance, email: lacey.bragg@es.govt.nz or phone 03 211 5115.

Dated: 20 November 2019

A handwritten signature in black ink, appearing to read "Bob Nixon".

Bob Nixon, Chair

26/11/2019

A handwritten signature in blue ink, appearing to read "Bianca Sullivan".

Bianca Sullivan, Independent Commissioner

26/11/2019