

Report on pre-hearing meeting
Section 99 of the Resource Management Act 1991

From: Cr Neville Cook

To: Hearing panel for APP-20168843

Date: 23 June 2017

Pre-hearing meeting

1. On 2 June 2017 the Environment Southland (ES), conducting its function as consent authority under the Resource Management Act 1991 invited Invercargill City, which had applied for resource consent, and the submitters to the application, to a pre-hearing meeting held under section 99 of the RMA.
2. At that stage the application had been notified 30 September 2016, submissions closed 1 November 2016, eleven submissions were received, and seven submitters opposed the application and nine submitters indicated that they wished to be heard at a hearing. Following the submission period the application had been placed on hold under s91A of the RMA.
3. The meeting agenda, circulated on 2 June 2017 by ES, outlined the issues for clarification or resolution as:
 - a. Sewage contamination of the stormwater network
 - b. Mitigation measures (possibly including upgrade of the stormwater network)
 - c. Monitoring
 - d. Limits/trigger limits and actions
 - e. Consent duration
4. Additional matters for clarification arising before and during the meeting were the conditions proposed by the applicant, in particular:
 - a. Monitoring to detect and source sewage contamination within the stormwater network
5. The meeting was held on 15 June 2017 as follows:
 - a. Location: Council Chambers, Environment Southland
 - b. Present:
 - i. Malcolm Loan, Invercargill City Council
 - ii. Michael Morris, Invercargill City Council
 - iii. Janan Dunning, MWH NZ Ltd (for ICC)
 - iv. Susan Bennett, MWH NZ Ltd (for ICC)
 - v. Jacob Smyth, Fish & Game NZ, Southland
 - vi. Kate Marshall, Public Health South
 - vii. Bill Smellie, Tara Downs
 - viii. Rosemary Hamilton, Stranraer Farm
 - ix. Warwick Kent, Farm owner
 - x. Alan Flett, Farm owner
 - xi. Doug Fraser, Federated Farmers NZ, Southland
 - xii. Darryl Sycamore, Federated Farmers NZ (advisor)
 - xiii. Stephen West, Environment Southland
 - xiv. Neville Cook (Chair), Environment Southland

- c. Apology:
 - i. Stevie Blair Te Ao Marama Inc.

Statutory and procedural matters

Chairperson to prepare this report

- 6. Section 99(5) and (6) require the chairperson of the meeting to prepare a report outlining particular matters, and to circulate that report to all of the parties and the consent authority (meaning, the commissioners or hearings panel that will hear and determine the application) no less than 5 working days before the hearing.
- 7. The report must, for the parties who attended the meeting:
 - a. set out the issues that were agreed; and
 - b. set out the issues that are outstanding.
- 8. However, the report must not include anything communicated or made available at the meeting on a without prejudice basis.
- 9. In addition, the report may, for all the parties:
 - a. set out the nature of the evidence that the parties are to call at the hearing; and
 - b. set out the order in which the parties are to call the evidence at the hearing; and
 - c. set out a proposed timetable for the hearing.

Status of this report and next steps

- 10. Section 99(6) requires the chairperson to send this report to the consent authority and all the parties so that they have it at least 5 working days before the hearing.
- 11. Section 99(7) **requires** the consent authority (meaning, the commissioners delegated power of the consent authority by to determine the application) to **have regard to** this report in making the decision on the application.

Meeting summary:

- 12. The meeting began with a brief outline of the proposal by Mr Dunning, for the applicant.
- 13. This was followed by comments by each of the submitters. Some of the submitters acknowledged that they had been consulted by the applicant, and at least one supported the working party condition proposed by the applicant. A number of submitters called for the application to be handled in a manner that was equitable with other dischargers in the catchment.
- 14. Mr West stated that the application was for a non-complying activity, so could only be approved if the hearing panel was satisfied that the adverse effects were minor or the proposal was not contrary to the objectives and policies of the regional plans. He advised the applicant that, at this stage, he did not believe that the application met those tests.
- 15. Sue Bennett, on behalf of the applicant, discussed the draft conditions that had been developed. Key points:
 - a. Dry weather sampling is proposed as it will be more effective at detecting sewage contamination of the stormwater
 - b. Regular monitoring in the receiving waters will be carried out and will trigger further investigation if limits are breached
 - c. Audits of stormwater systems at industrial and commercial properties that have hazardous substances or bulk contaminants identified by the working party.

16. Various details of the proposed conditions were discussed, some of which were to be reconsidered by the applicant.
17. Overall the meeting concluded without agreement.
18. The matters that remain in dispute include:
 - a. Whether or not the application should be approved
 - b. A plan and timeframe for removing sewage contamination from the stormwater system
 - c. Engineered overflows within the sewerage and stormwater networks
 - d. Monitoring to detect sewage contamination; either as proposed by the applicant or an alternative
 - e. Limits to trigger further investigation
 - f. Alerting the public when sewage contamination is detected
 - g. 35 year duration sought by the applicant
 - h. The receiving water limits that should apply
 - i. Measures to remove or reduce contaminants other than sewage in stormwater
 - j. Monitoring or modelling for annual contaminant loads from stormwater



Neville Cook, Chairperson
Councillor, Environment Southland

Date: 23 June 2017