

Attachment 4:

Pre-Hearing Report.

Report on pre-hearing meeting

Section 99 of the Resource Management Act 1991

From: Cr Eric Roy

To: John Maassen, Sharon McGarry, Reginald Proffit, Cr Neville Cook

Date: 30 September 2020

Pre-hearing meeting

1. On 30 September 2020 the Environment Southland (ES), conducting its function as consent authority under the Resource Management Act 1991 invited Alliance Group Limited, who has applied for resource consent, and Fish and Game, Department of Conservation, Te Rūnanga o Ngāi Tahu and Hokonui Rūnanga who are submitters on the application, to meet.
2. ES also invited submitters with the right to be heard, Jo-Anne Barclay and Robin McGowan. Kim Reilly of Federated Farmers withdrew their right to be heard prior to the meeting and did not wish to attend.
3. The application was notified on 24 October 2019 and submissions closed 22 November 2019. 211 submissions were received, four (4) submitters opposing the application indicated they wished to be heard at a hearing. The requested meeting was therefore a pre-hearing meeting held under section 99 of the RMA.
4. The meeting was held by ES at the request of Alliance Group Limited for the purpose of clarifying and discussing the key issues. The meeting agenda, circulated on 29 September 2020 by ES, outlined the issues for clarification as:
 - a. Consideration of alternatives / best practicable option
 - b. Discharge volume
 - c. Discharge quality and associated standards (pre and post upgrades)
 - i. Appropriateness of proposed 12-month rolling medians and 95th percentile units
 - ii. Monitoring requirements
 - d. Upgrade timeframes
 - i. E coli, nutrients
 - e. Consent term
 - f. Review conditions
 - g. Consideration of “existing environment”
 - h. Fish passage (NPSFM (2020))
 - i. Implications of NPS FM (2020) (e.g. Te Mana o te Wai, Objective 2.1)
5. No additional matters for discussion arose before or during the meeting.
6. The meeting was held on 30 September 2020 @ 1:00 pm as follows:
 - a. Council Chambers, Environment Southland and via Zoom
 - b. Attending:
 - i. Doyle Richardson – Environmental Director – Alliance Group Limited
 - ii. Willie Wiese – General Manager Manufacturing – Alliance Group Limited
 - iii. Chris Dada, Alliance Group Limited
 - iv. Azam Khan – Director – Pattle Delamore Partners Limited

- v. Jacob Smyth – Resource Management Officer – Fish and Game
 - vi. Tom Christie – RMA Planner – Department of Conservation
 - vii. Jules Hunter – Department of Conservation
 - viii. Emily Funnell – Technical Advisor, Freshwater – Department of Conservation
 - ix. Paul Whyte – Consultant – BECA
 - x. Riki Parata – Pou Takawaenga Taiao – Hokonui Rūnanga
 - xi. Lisa McKenzie – Senior Environmental Advisor, Planning – Te Rūnanga o Ngāi Tahu
 - xii. Ian Mayhew – Processing Officer – 4Sight Consulting
 - xiii. Helen Brown – Consents Officer – Environment Southland
 - xiv. Councillor Eric Roy – Chair
- c. Apologies: Zane Moss, Fish and Game

Paul Whyte departed: 1:56pm
 Jacob Smyth departed: 2:16pm

The meeting concluded at 2:25 pm.

Statutory and procedural matters

Requiring and requesting attendance

- 7. Section 99(2) allows consent authorities to request an applicant, a submitter or any other person it considers appropriate to attend a pre-hearing meeting. This can be either at the request of the applicant or submitters or on its own initiative.
- 8. In this case the applicant requested the meeting to be held and for submitters to attend. ES agreed this was appropriate and advised by email on 21 September 2020 that a meeting was to be held and requested attendance to the parties listed above.
- 9. If attendance is requested, as opposed to required, the attendance of the applicant and submitters is optional and their decision to attend can be made without prejudice. In this case, the requested parties attended, with the exception of Jo-Anne Barclay and Robin McGowan who did not attend.

Attendance of those delegated to make decisions

- 10. Section 99(4) states that an officer of the authority who has the power to make the decision on the application may attend, subject to the agreement of all the parties attending and participating, and if the consent authority is satisfied their presence is appropriate.
- 11. No officers with delegation to determine the application were present at the meeting.

Chairperson to prepare this report

- 12. 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.
- 13. 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

14. However, the report must not include anything communicated or made available at the meeting on a without prejudice basis.
15. 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.
16. Commentary on these matters can be found from paragraph 20 of this report. The meeting did not address matters pertaining to evidence or the hearing timetable.

Status of this report and next steps

17. 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. The report was sent by email to the parties on 15 October 2020.
18. At the time of writing, no attending parties have advised that they no longer wish to be heard, and the application is scheduled to be heard on 1 – 3 December 2020.
19. 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.

Issue 1 – Consideration of alternatives / best practicable option.

Issue is still to be resolved.

20. Discussion occurred regarding options available to the applicant, of continuing to discharge waste water to surface water which is the practice under the current consent, or to discharge the waste water to land.
21. The applicant highlighted the alternatives that had been considered for discharge to land. Firstly, land within a 5km radius from the plant on the western side was likely to contain gleyed soils (meaning discharge could only occur in summer), and was part of a Ground Water Management Zone with a likelihood of contaminants leaching to ground water over time. Land considered on the eastern side of the plant has topography unsuitable for land based discharge. As well, further waste water treatment would be required before any discharge to land could be undertaken. The suitability of the soils and the potential for odour were identified as the two key issues/constraints to land discharge.
22. Questions were asked about the amount of land required for land based discharge, how the costing for land based discharge (including land costs) was determined and how the volume of land required for the biological treatment for winter storage outlined (160ha) had been determined.
23. Issue required no further clarification.

Issue 2 – Discharge volume

Issue is still to be resolved.

24. Discussion occurred regarding the suitability of the Assessment of Environmental Effects submitted with the application, as it is based on the current approximate median discharge volume of 5,000m³/day (whereas a discharge of up to 8,000 m³/day is provided for in the conditions) and whether the report by PDP assumes no increase in processing capacity for the plant in the future.
25. The applicant highlighted that sufficient water for processing is essential for their health/export licence and noted that the volumes used and applied for are significantly less than the 14,400 m³/day than they are currently able to use. They highlighted the water saving strategy proposed in Condition 6 and that they are aware of the legacy issues that means the plant may not be as efficient as a brand new plant built today. An investigation into water recycling was programmed as part of the proposed consent conditions.
26. The applicant advised that they had assessed the effects of a discharge of 8,000 m³/day of wastewater.
27. Issue still outstanding with regards to the volume of discharge required for the future running of the Alliance Mataura plant.

Issue 3 – Discharge quality and associated standards (pre and post upgrade)

- a. **Appropriateness of proposed 12-month rolling medians and 95th percentile limits**
- b. **Monitoring requirements**

Issue is still to be resolved.

28. Discussion occurred regarding the appropriateness of using a 12 month rolling median, namely that using a rolling average would even out the annual result without taking into account seasonal variations.
29. Alliance Group Limited explained that at the Alliance Lorneville plant, if any exceedance over the 95th percentile occurs on two consecutive occasions, they are required to investigate and provide a report as to why the exceedance occurred and what would Alliance do to prevent it happening again if necessary.
30. It was agreed that the applicant would provide further details on how in-stream dilutions (concentrations) from the 12 month rolling median and 95th percentile had been determined.
31. Discussion occurred on the proposed conditions in particular Condition 4 regarding annual Nitrogen (N) load (60 tonnes) and Condition 5 regarding the 15-year N load (780 tonnes in 15 years – average of 52 tonnes/year).
32. Alliance Group Limited explained that the annual load limit condition is based on the conditions for N load to the estuary from the Alliance Lorneville plant consent. Using an annual N load limit (Condition 4) allows for some flexibility about the load from processing numbers on an annual basis to account for variability. Condition 5 (15year total load) has been proposed to show that discharge won't increase the overall N load until the upgrade to the plant is completed in 15 years. 52 tonnes/year reflects current plant operations.

33. The applicant advised that the proposed monitoring regime was similar to that currently in place. It was agreed that the applicant would provide details of the current monitoring regime undertaken for the Alliance Mataura plant.
34. Issues still outstanding include the appropriateness of the proposed 12-month rolling medians and 95th percentile limits and the monitoring requirements.

Issue 4 – Upgrade timeframes

a. E coli, nutrients

Issue is still to be resolved.

35. Discussion occurred around the proposed timing of the upgrades to the Mataura plant. Fish and Game advised that they were supportive of the upgrades. They encourage the UV upgrade for treatment of E. coli in 5 years and asked whether there is any scope to bring the biological treatment upgrade forward from 15 years – this was their key concern.
36. The applicant highlighted that a range of upgrades are proposed for both the Alliance Mataura and Alliance Lorneville plants, including in respect of air discharges, and that there is a limited amount of capital available to carry out any additional works. Accordingly, expenditure needed to be prioritised across multiple issues.
37. Questions were asked regarding the likelihood of whether the Alliance Mataura plant would be fully compliant by the end of the 15-year term proposed, when would the upgrade work actually begin and when would improvements to water quality start to be seen. The applicant advised that they would commence preparation for the upgrade several years in advance of the compliance date.
38. The applicant has subsequently clarified that the lead in time would be approximately four (4) years prior to the compliance date, determined as follows:
 - Year 15 – Compliance date
 - Year 14 – 12 months prior – plant operational for 12 months to ensure compliance can be met under varying load conditions
 - Year 13 – Construction period of 12 months
 - Year 12 – Design completed and tendered for
 - Year 11 – Strategic review of upgrade requirements to meet compliance dates as well as being cognisant of any legislative/catchment wide changes
39. Issues that are outstanding include the timeframe for proposed upgrades and whether there can be some tangible improvement targets.

Issue 5 – Consent term

Issue to be resolved.

40. Discussion occurred regarding the term of the consent that has been applied for and the balancing act between the financial expenses to the applicant and the ongoing health of the Mataura River. Various

consent terms were proposed by submitters, ranging from a 10-year term to a 25-year term and that a shorter duration consent term is still supported. Concern was raised that once the upgrade was completed it would be 'BAU' (business as usual) for the remaining term of the consent.

41. Questions were asked about the 25-year consent term given to the Alliance Lorneville plant. The applicant explained that a 35-year term had been applied for in the Alliance Lorneville consent, and had been reduced to a 25-year term during the hearing process for that application.
42. Issue is still outstanding as no agreement has been reached on the consent term.

Issue 6 – Review conditions

Issue to be resolved.

43. Discussion occurred regarding the impact of future freshwater objectives and potentially discharge limits from the implementation of the National Policy Statement Freshwater Management (NPSFM) and would the applicant consider a review of consent conditions once ES has implemented the NPSFM requirements.
44. The applicant indicated that the 15-year time period to review consent conditions was taken from the Alliance Lorneville consent application. Further, the applicant indicated that under proposed Condition 15, they would be able to 'stocktake what is happening as things change' once the upgrades to the plant have been commissioned. This proposed condition includes the ability for the consent authority to initiate a formal review of limits.
45. Issue is still outstanding as no agreement has been reached on consent review conditions.

Issue 7 – Consideration of the “existing environment”

46. No party entered into discussion on this issue.

Issue 8 – Fish passage (NPSFM (2020))

Issue to be resolved.

47. Discussion occurred regarding the level of detail available on any fish passage investigations that have been undertaken. Questions were asked regarding information on the effects of the discharge on kanakana and whether there would be conditions in the consent to protect or provide for them.
48. The applicant agreed that the application is 'light on detail' on the impacts of the consents on fish passage and that more information is available from the hydro-scheme re consenting. The applicant indicated that there are details still to be worked through, and there is ongoing work with Hokonui Rūnanga and NIWA.
49. The applicant will provide further information on fish passage.
50. Issue is still outstanding as no agreement has been reached on the requirements to be provided for fish passage.

Issue 9 – Implications of NPS FM (2020) (e.g.: Te Mana o te Wai, Objective 2.1)

51. No submitters entered into discussion on this issue.

Conclusion

52. The meeting concluded with the agreement that the applicant would provide further information to support its application, namely:
- a) further details on how the in-stream dilutions (concentrations) were calculated by the use of the 12 month rolling median and 95th percentiles;
 - b) provide details of the current monitoring regime undertaken for the Alliance Mataura plant.
 - c) further information on fish passage;
 - d) continue working with Hokonui Rūnanga.

A handwritten signature in black ink, appearing to read 'Eric Roy', with a stylized flourish at the end.

Councillor Eric Roy
Chair
Date: 15 October 2020