

**BEFORE THE COMMISSIONERS APPOINTED BY
THE SOUTHLAND REGIONAL COUNCIL**

In the matter The Resource Management Act 1991 (RMA)

And

In the matter of Resource Consent Applications for land use consents, water
permits and discharge permits

By Woldwide One Limited and Woldwide Two Limited; Woldwide Four
Limited; and Woldwide Five Limited (Applicant)

**ADDENDUM TO S42A REPORTS
AUTHOR – AURORA JUNE GRANT
FOR SOUTHLAND REGIONAL COUNCIL
27 September 2019**

REPORT

1. I have prepared my original s 42A reports and this addendum as directed by the Minute of the Hearing Panel dated 4th of September.

Background

2. Multiple changes and alterations to these applications have been made by the applicant throughout the processing of these consents.
3. On the 4th of September the Commissioners noted the confusion caused by this approach to the application and issued a Minute that directed that:
 - a. any additional changes made to the applications were to be provided in the applicants' evidence.
 - b. the applicants provide a summary of the changes made to date to provide clarity of what was now to be assessed, including a list of which documents have been superseded, which are replacement documents and which have been amended (and a description of how).
 - c. I provide an addendum to the s42A reports, assessing these changes, and draft conditions, one working day prior to the commencement of the hearings of the applications.

Developments since 4th of September

4. Despite these directions, the applicants provided the Council with additional changes to multiple documents on the 5th of September.
5. The agents for the applicants provided a summary of the documents changed, but did not provide details of which documents of the total provided since lodgement were still part of their application and which were not.
6. In accordance with the Minute, I did not consider the documents provided on the 5th of September when preparing the s 42A reports.
7. The s42A reports were circulated on the 9th and 12th of September and were based on versions of documents provided to the Council up to and including the 4th of September.
8. Also in accordance with the directions detailed in the Minute, I did not circulate draft conditions with the s42A reports.

Developments since 15th of September

9. On 16th and 19th of September the applicants' evidence was provided to the Council and circulated.

- a. The evidence did not provide clarity of what was now to be assessed.
10. Rather, the evidence included documents that:
 - a. Were, or could be, new versions of documents that had previously been provided;
 - b. Were not updated to show new version numbers or dates, to distinguish them from prior versions; and
 - c. Contained in places amended wording or numerical data but without explanation as to why changes had been made.
11. No revised assessment of effects in relation to the specific changes to mitigations was provided.
12. The applicant was directed to provide “summary of the changes to the applications by 4pm on 5 September”, including a list of superseded, replacement and amended documents. That was not provided and as such I am not confident I have been able to identify all of the amendments to the application and their significance for the decision to be made. As a result, it has not been practicable for me to provide detailed analysis and comment on the amendments in this addendum report.
13. In assessing the latest versions of the proposals I approached the technical experts who have been engaged by the council to provide expert assessment of various components of the proposals throughout the process, to review the changes against their evidence.
14. The experts have been contracted to Environment Southland to provide expert advice for resource consenting matters, in a manner that internal resources from the science team provide in usual circumstances. Due to resourcing shortages, it is common practice for the consents team to engage external technical experts to provide advice on consent applications.
15. The experts were contracted to the council to provide advice under the delegation of the Consents Manager, as set out in the council’s delegation manual. These contracts are umbrella contracts that cover all related processes, such as evidence preparation for applications.
16. As such, the technical experts have addressed the changes made to the proposal within the areas of the respective expert’s expertise. To avoid duplication, I have attached these rather than repeating the content in this addendum. I have considered the opinions of the technical experts and adopt them.
17. There are a number of planning matters arising from this expert evidence and the changes made to the applications. I consider that a discussion of these matters at the hearing, after hearing the evidence for the applicant, will be the best way for me to provide analysis to assist the commissioners.

Consent Conditions

18. As directed, I attach draft conditions for APP-20191052 (WW1&WW2) for the commissioner's consideration if they are of a mind to grant the consents.
19. Draft conditions for APP-20191140 (WW4&WW5) will be circulated on Tuesday 1st of October, as directed in the minute.
20. In regards to these conditions, there are some relating to the effluent system that are subject to change as currently Council is processing an application for land use consent for the reconstruction, use and maintenance of an existing agricultural effluent system. Should that consent be granted, the proposed conditions on the discharge permit relating to that effluent pond, will have to be adjusted to reflect this.
21. Ms Legg has proffered the following consent condition to address concerns about the applicants compliance with previous Resource Consents and to ensure a *"high level of compliance"*;

"The applicants will, by 30 June of each year, provide to the Manager Compliance, Environment Southland, an audit report produced by a person suitably qualified in rural environmental compliance, outlining the manner in which the conditions of this consent and all applicable LWRP [sic] permitted activity rule conditions have been complied with in the preceding season".
22. I do not consider that a requirement to undertake an audit of compliance during the previous season will have the effect of ensuring a greater level of compliance by the applicant. Regardless of any monitoring or compliance conditions, a consent holder is required to ensure compliance with the conditions of consents – monitoring conditions simply measure that compliance.
23. In any event, I consider that the proposed condition is superfluous as the resource consents will be subject to routine compliance monitoring inspections, as the previous resource consents held by the applicant have been, by Compliance and Enforcement Officers from the Consent Authority. As such, the intent of the above condition would be met irrespective of its presence.
24. I also have concerns about the practicality of an audit which is required to determine if all consent conditions and permitted activity rules have been complied with for the preceding year. This is because any non-compliance that occurred whilst an auditor is not present could be missed which could result in misrepresentation of the compliance history.
25. In addition to the above points, the proposed consent condition also does not mention the permitted activity rules under the operative Regional Water Plan, of which the applicant is also required to comply with.
26. Ms Phillips has provided comment on the suitability of the Nutrient Budgeting requirements in the proposed conditions in her addendum (attached).

27. Mapped areas of the properties and legal descriptions of blocks have not been included in the draft conditions as the most recent evidence provided by the applicants appears to detail conflicting property maps and legal descriptions with what has been provided in other variations. This is a matter that I consider will need clarified at hearing before complete draft conditions can be generated.

Conclusion

28. Taking into account the amendments to the application made since 4th September that I have been able to identify, and taking into account the expert opinions of Belinda Meares, Nicole Phillips and Abigail Lovett:

- a. I currently hold all of the same views about the application that I described in the original s 42A reports.
- b. The changes I have identified made to the application, where I have been able to identify them, do not materially address the issues that lead to my recommendation that the application be declined.
- c. I maintain the opinion the applications should be declined.

Yours sincerely

A handwritten signature in black ink, appearing to be 'AG', with a long horizontal line extending to the right.

Aurora Grant
Team Leader Consents