

Resource Consent Applications
Eastern Bays Shared Pathway
WGN190301 & RM190194

Minute 2 of Hearing Panel

1. The purpose of this Minute is to outline the remaining steps in the decision-making process for the hearing on these resource consent applications.

Provision of Information

2. During the course of the hearing, and in particular on Day Three (17 December), we indicated our expectations regarding subsequent responses from parties to matters raised during the hearing. There are three delivery expectations referred to in this Minute, being:
 - a. As soon as possible,
 - b. Wednesday 23 December 2020, for responses from the reporting officers, and
 - c. Thursday 21 January 2021, for written closing submissions from legal counsel for the Applicant.

As soon as possible

3. The hearing administrator will circulate an email received from Ms Teresa Walton, who could not appear as scheduled on Thursday 17 December.
4. As soon as possible, but no later than 21 January, the Applicant and Councils are to provide a jointly updated set of recommended consent conditions for us to consider. The document should be in Word format, in tracked changes mode, and clearly show:
 - Changes agreed by the Councils and the Applicant since the commencement of the hearing; and
 - Changes not agreed by one or more of those parties and the reasons for the disagreement.
5. In providing the update of the proposed conditions, those parties are to consider the following matters in particular (but are not limited to just these items):
 - The purpose statement in condition EM.14
 - The 2-stage process set out by condition EM14(xii)
 - Provision for considering / integrating disability requirements in the design, such as in condition LV.7(a)
 - The time period for monitoring of the beach nourishment projects (condition CM.15).

- Wording changes that respond to the points raised by Mr Le Marquand (acting for the Oil Companies, including using the words “work together” and “consult”) and other utility managers.
6. The Applicant and HCC are to provide a jointly confirmed statement of advice about the outcome of discussions between Catherine Hamilton (for HCC) and Jamie Povall (for the Applicant).
 7. The Applicant will supply us with an electronic copy of the wall map which was displayed at the hearing.

Wednesday 23 December 2020

8. Mr Kellow (HCC) is to advise on the LV suite of conditions, including:
 - Whether expert peer review would be undertaken prior to the HCC Team Leader Resource Consents approving plans.
 - Practicalities of the timeframe (15 days) allowed for the process to occur (with or without peer review being required).

We anticipate that Mr Kellow may liaise with Mr Allen (legal counsel for the Applicant) in providing his advice so that practicality is understood from the Applicant’s perspective.

9. Mr Watson (GWRC), drawing on the evidence of Dr Oliver, is to provide clarification regarding the PNRP deposition rule (R205): in particular, is deposition limited to deliberate / direct actions, as opposed to an indirect outcome arising over time from natural processes?
10. Mr Watson will also provide advice on how the mitigation recommended by Dr Uys could be applied as resource consent conditions, providing certainty, targets and monitoring against targets, and measures of success. This includes some definition of Dr Uys’ recommended extension of the proposed protection areas.

Thursday 21 January 2021

11. The Applicant is to provide closing written submissions.

(Note to Submitters: The provision of written closing submissions by the Applicant alone, after the actual hearing, is standard practice in resource consent hearings, recognising the right of an applicant to a final right-of-reply to matters arising in a hearing)
12. The Applicant’s closing submissions will include (but is not limited to):
 - A discussion related to the Applicant’s views about the interpretation of “avoid” in relevant planning documents, including the relevance of transitory or minor effects.
 - Any issues concerning the Environment Court Code of Conduct.
 - A rebuttal statement from Dr Cockrem to Dr Uys’ evidence tabled at the hearing on 17 December 2020.
 - Comment about the status of road barriers and bus stops (whether they are permitted or non-complying).
 - A summary of the consents being sought – including in relation to the Hutt Aquifer Protection Zone, which non-complying activities are triggered, and the scope of permitted activities.

13. We will conduct a site visit along the length of the project in late January 2021. In addition, we intend to visit and view the Days Bay Penguin Haven, which we expect will be guided by Mr Rumble: to that end, the Applicant is also invited to have a representative to attend. We were advised that the Applicant would likely be represented by Mr Cager.

Close of Hearing

14. Once we have conducted the site visit in the week commencing 25 January 2021, and subject to our being satisfied that we have sufficient information, we will formally close the hearing. A Minute will be issued to all parties advising of the final closing date.
15. As required by the Resource Management Act, our decision will be issued within 15 working days after closure.



Robert Schofield

Chair, Hearing Panel