

BEFORE THE CANTERBURY REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of 61 consent applications to take, use, divert and dam water and 51 associated discharge and land use consent applications in the Upper Waitaki Catchment

28th MINUTE OF COMMISSIONERS

Update on release of decision

Dated 4th April 2011

28th MINUTE OF COMMISSIONERS – Update on release of decision

Introduction

- 1 The Commissioners have received requests from the hearing officer to provide an update as to progress on decision considerations, writing, and an intimation of when the decision may be available.

Timeline

- 2 The formal hearings took place between September 2009 and May 2010. The hearings took place over that period of time on a regular and consistent basis with very few days where sittings did not take place. Thus there was little time available for much else other than pre-reading and sitting. There are in excess of 60 applications before us.
- 3 After the formal hearing process the applicants, submitters and section 42A report officers undertook an exercise involving meetings and discussions to resolve condition sets that would accompany the various applications.
- 4 Given the nature of the applications and the issues raised by these applications, condition sets make up a critical part of considerations.
- 5 The first completed conditions sets for three of the sixty or so applicants were received by the Commissioners in October 2010. While waiting for this critical "condition information", the Commissioners met, deliberated, set the form of the decision, reached preliminary conclusions, and commenced writing the first part of the decision (Part A).
- 6 Final versions of the balance condition sets were received by the Commissioners in the last working week of 2010, with full completed copies of the condition materials being made available to us in mid- to late-January 2011.

Decision approach

- 7 We have made it clear from the outset that we intended to release a single decision, dealing with all the applications before us. We do not think it appropriate to issue either an interim decision or a decision on some applications before all applications had been considered and decisions completed upon them. Indeed, it is our very clear view, given the manner the cases were presented to us and the issues raised, that there are no readily available alternatives rather than to issue a single decision in relation to all applications. That remains our position.
- 8 The decision contains principally two parts. Part A deals with primarily cumulative effects. That part of the decision is well advanced and we have settled on our approach to the issues addressed in Part A.
- 9 We have made useful progress with Part B, which deals with the individual applications. Though there remains significant work to complete Part B.

Date of release

- 10 It is not possible nor do we believe it wise, for a range of reasons, to nominate a date when the decision will be available for release.
- 11 While it is understandable all participants, particularly the applicants, are keen to have a decision delivered as soon as possible, which is also the objective of the Commissioners, it must be borne in mind that given the number of issues and their complexities, the quantum of evidence produced (over 1200 pages of materials were presented for the condition sets alone) all lead to one outcome,

namely, it will take a considerable period of time to complete and issue the decision.

Earthquakes

- 12 The Canterbury earthquake of 4 September 2010, and the significant aftershocks experienced in Christchurch on 26 December 2010 and 22 February 2011 have had effects on the timing of release of the decision.
- 13 The September earthquake destroyed one of the Commissioners' offices. This resulted in that Commissioner needing to spend time on other pressing issues other than decision-writing. It also caused delays for that Commissioner in terms of access to materials to enable decision-writing.
- 14 The 22 February 2011 earthquake affected the Christchurch Central Business District (CBD) and another Commissioner's office. That office remains locked down and unavailable. It is situated within the 'red zone' of the CBD. Written records, hearing notes, and evidence with notations have not been available since 22 February 2011. Copies of evidence have been made available from other sources. However, attendance on earthquake-related matters (such as finding, securing and relocating to new premises, and dealing with a multitude of issues) have had impacts upon time available to devote to decision-writing.
- 15 Thus, both earthquakes have (hopefully understandably) delayed the decision release process.

Conclusion

- 16 In answer to the query when the decision will be issued, the best we can do is give all participants an assurance that the decision is being progressed as rapidly as possible. All Commissioners are working on the decision covering different areas and issues.
- 17 The length of the hearing, the volume of evidence produced – both in terms of the hearing itself and, particularly, in relation to condition sets – means that there will be significant time spent in reviewing and assessing that evidence.
- 18 The point in time when the final critical "conditions material" was produced to us was not until mid-January 2011. Thus, a critical part of our deliberations and assessment was only recently commenced in early February 2011. The 22 February 2011 earthquake occurred after our early February deliberation session. Thus the earthquake has had a very material effect on work related to the decision.
- 19 The case is a very important case; it raises critical and complex issues, which will take time to resolve.
- 20 It would not be wise nor is it appropriate for the Commissioners to pick a projected end date for the release of the decision. Suffice to say a decision will be released in the form described above as soon as practicable.

Dated at Christchurch this 4th day of April 2011



Paul Rogers
Commissioner Chair on behalf of the Committee