

BEFORE THE CANTERBURY REGIONAL COUNCIL

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

**13th Minute of Commissioners in response to application pursuant to s87D
on behalf of Southdown Holdings Limited, Williamson Holdings Limited, and Five
Rivers Limited dated 22 December 2009
seeking a direct referral to the Environment Court for determination the applicants'
effluent applications**

Dated 23 December 2009

13TH MINUTE OF COMMISSIONERS IN RESPONSE TO AN APPLICATION PURSUANT TO S87D ON BEHALF OF SOUTHDOWN HOLDINGS LIMITED, WILLIAMSON HOLDINGS LIMITED, AND FIVE RIVERS LIMITED DATED 22 DECEMBER 2009 SEEKING A DIRECT REFERRAL TO THE ENVIRONMENT COURT FOR DETERMINATION THE APPLICANTS' EFFLUENT APPLICATIONS

Introduction

1 This request relates to the following applications:

Williamson Holdings Limited – CRC100227, CRC100475, CRC100478, CRC100479, and CRC101541;

Southdown Holdings Limited – CRC100224, CRC100480, CRC100481, CRC100482, and CRC101542; and

Five Rivers Limited – CRC100787, CRC100788, CRC100824, CRC100827, and CRC101540.

- 2 We observe that section 87D was inserted into the Resource Management Act as from 1 October 2009 as a result of the Resource Management Act (Simplifying and Streamlining) Amendment Act 2009 (the amending Act).
- 3 The amending Act has transitional provisions, including section 160, which deals with the circumstance as to when the provisions of the amending Act apply to applications that are already in process under the Resource Management Act.
- 4 In short, section 160 provides that applications lodged before the commencement of the amending Act, which was enacted at 1 October 2009, are determined as if the amendments made by the amending Act had not been made.
- 5 Thus in simple terms, section 87D, which was inserted by the amended Act, is only available to applications lodged on or after 1 October 2009.
- 6 The applications we set out above were lodged in July and August of 2009. Thus it appears to us section 87D is not available to the applicants, and there would appear to be a fundamental jurisdictional barrier for the application of section 87D to this circumstance.
- 7 Accordingly, we ask the applicant to address this issue and respond as soon as practicable.

- 8 We note as an observation that, in terms of an application made under section 87D (on the basis that we do have jurisdiction to determine one having regard to the matters set above), section 87E specifies that we must give the applicant our decision on the request within 15 working days after receiving the request.
- 9 The request was received by us on 22 December 2009. Therefore, that day will not fall within the computation of time.
- 10 We observe under section 2 of the Act, a "working day" means any day except a day in the period beginning on 20 December in any year and ending with 10 January in the following year. Thus, on our computation of the time period in which we need decide the request, if indeed we are able to, would expire on Friday, 29 January 2010.
- 11 We set this issue out seeking a response from the applicant as to whether or not it agrees with our computation of time.
- 12 Needless to say, notwithstanding the impending holiday break we will do our very best to respond, if we have jurisdiction, in a timely manner to the applicants' request under section 87D.

Dated at Christchurch this 23rd day of December 2009



Paul Rogers
Commissioner Chair on behalf of the Committee