

Canterbury Regional Council (Environment Canterbury)

**Proposed Plan Change 7 to the Canterbury Land and Water Regional Plan and Proposed  
Plan Change 2 to the Waimakariri River Regional Plan**

DECISION OF THE HEARING COMMISSIONERS

on the request by Nga Runanga

for extensions of time for lodging statements of evidence-in-chief

[Decision 3]

1. By Minute 1 issued on 3 March 2020 we directed that evidence-in-chief was to be received by the Council by 20 April 2020; and rebuttal evidence by 4 May 2020.
2. Due to intervention of the COVID-19 emergency, by Minute 3 issued on 24 March 2020, we revoked those directions.
3. By Minute 6 issued on 8 June 2020 we directed that submitters' statements of evidence-in-chief are to be lodged by 17 July 2020; and statements of rebuttal evidence are to be lodged by 18 September.
4. On 16 July 2020, we received a memorandum on behalf of various submitters who are collectively referred to as Nga Runanga. The memorandum was signed by counsel for those submitters, thereby signifying appropriate responsibility for the probity of the contents.
5. By that memorandum, the submitters ask for extensions of the time for lodging their evidence, to 22 July, except in the case of one witness (Mr Gyopari), for whom an extension to 29 July is requested. A consequential extension to the time for lodging statements of rebuttal evidence is also acknowledged.
6. On our understanding of the memorandum by counsel for Nga Runanga, the reasons for the requested extensions of time are in three categories: one, about Te Mana o te Wai; second,

concerning preoccupation with COVID-19; and third, that no prejudice or disruption would result.

7. The reason referring to Te Mana o te Wai states that no substantive evidence on that was provided in the section 42A report; that the authors of the report indicated that Nga Runanga should provide evidence on that matter; that the submitters argued this topic was otherwise the Council's obligation and responsibility to provide; and that the Council had effectively sought to delegate that obligation to submitters.
8. Nga Runanga developed that reason in two ways. First they said that this "evidentiary burden" was an additional responsibility placed on Nga Runanga that no other submitters should have been required to address. Secondly, that the application and meaning of Te Mana o te Wai is specific to each runanga, their history and their values, and providing the analysis and details required had been a "very significant exercise" for Nga Runanga witnesses.
9. The second reason, connected with the first, is that Nga Runanga staff and kaumatua, for a significant time, had been pre-occupied with high-priority tasks resulting from Covid-19, particularly during alert levels 4 and 3 kaumatua had been significantly diverted to ensure there was on-the-ground support in their rohe, creating continued disruptions and changes to working environments, difficulties in communication, and reprioritisation of work tasks.
10. Nga Runanga developed that reason, saying that witnesses' abilities to satisfactorily complete their statements had been compromised; and they had not been able to discuss and progress their statements to the extent anticipated.
11. The third matter was that as hearing dates have not yet been confirmed, the extension sought will not prejudice any party, nor cause significant disruption.
12. As the hearing commissioners we were presented with this memorandum on 16 July 2020, more than five weeks after the setting of the revised time for lodging statements of evidence-in-chief, and only one day before the expiry of that period.
13. Whatever weight might be deserved for the reasons given, they must have been apparent long before the expiry of the five-week period. Leaving lodging the memorandum to the day before the expiry does not indicate an understanding that the hearing commissioners should be able to exercise a responsible judgment whether or not to accede to the request. We do not understand why the extension request could not have been presented earlier. Leaving it until the preceding day limits the scope in which we can exercise our judgment.

14. On the reason about Te Mana o te Wai, we accept that by the National Policy Statement on Freshwater Management<sup>1</sup> (NPSFM), this is a topic that in general has national significance. We also accept that how this concept applies in particular localities can depend to some extent on local attitudes.
15. Our understanding of the contents on this topic of the section 42A report is that the authors considered it appropriate to allow tangata whenua of a locality to provide evidence of how Te Mana o te Wai applies there, if they chose. Of course that opportunity would have been available, even if not indicated by the report. Certainly, out of respect for what is essentially a topic for tangata whenua, the authors refrained from suggesting for themselves how the concept would apply in the Canterbury region, or the subregions the subject of Parts B and C of Plan Change 7.
16. We do not understand or accept the rhetoric of the memorandum that by the content of the section 42A report the Council was delegating an obligation to the runanga; nor was it imposing an evidentiary burden or additional responsibility on them. The authors cited iwi management plans and recent evidence, and drew attention to the opportunity for further clarification and particularisation.
17. We do understand that Nga Runanga wish to take up that opportunity in their evidence in the forthcoming hearing. To the extent that the evidence bears on contents of the original submission lodged by Nga Runanga, such evidence might well assist us in recommendations of improvements to the proposed plan changes.
18. However as that submission does not appear to propose substantial amendments bearing on Te Mana o te Wai, beyond contents of plans and evidence mentioned in the report, we do not yet understand why, over the five weeks period for lodging statements of evidence-in-chief, the statements could not have been completed in that time.
19. On the second reason, diversion and disruption due to COVID-19, we accept that there would have been diversions and disruptions to whatever plans Nga Runanga had made for completion of their evidence statements. We accept that the extension to 22 July being requested is justified, and moderate.
20. In that Nga Runanga are requesting an additional week for lodging a statement of evidence of Mr Gyopari, their memorandum does not explain why his evidence statement should not be completed and lodged by 22 July, as with the statements of other witnesses for Nga Runanga.

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<sup>1</sup> *New Zealand Gazette*, 10 August 2017, Edition 81, page 1.

We do not know what progress he made with preparing his statement over the five weeks, or what value he placed on conforming with the directions for lodging it. We know of no basis for making a further exception for it.

21. On the third ground, Nga Runanga argue the extension would not prejudice any party nor cause significant disruption, as hearing dates have not yet been confirmed. However our freedom to set revised hearing dates would be constrained by any significant departures from the timetable already set.
22. To conclude, in respect of statements of evidence-in-chief on the submission of Nga Runanga we extend the date for lodging to 4 pm on 22 July 2020. In that a longer extension was sought for a statement of Mr Gyopari, that is declined.
23. The time for lodging rebuttal evidence is to expire on 18 September, we do not consider a consequential amendment to that date is needed.

For the Hearing Commissioners:



David F Sheppard,

Chair

17 July 2020