

File No: WGN200083
1 November 2019

Wellington Water Limited
C/o Helen Anderson
Jacobs New Zealand Limited
Level 3, 86 Customhouse Quay
Wellington 6011

By email: helen.anderson@jacobs.com

Dear Helen

Subject: WGN200083 Pinehaven Stream Improvements, response to letter dated 10 October 2019 and next steps

Dear Helen

Thank you for your letter dated 10 October 2019 in response to our request to commission reports under section 92(2) of the Resource Management Act (RMA).

We acknowledge that WWL have rejected the commissioning of the reports under section 92B(1) of the RMA, and will continue to process the application under section 104 of the RMA.

Please see our response to the points raised in your letter below.

Response to WWL concerns about the use of section 92(2)

Point 3(a) from your letter: There is no suggestion (in either the WWL applications or the section 92(2) letter dated 24 September 2019) that these effects have the potential to be significantly adverse.

Whilst not explicitly stated in the section 92(2) letter, we (the consent authority) consider that the activity for which consent is sought may have a significant adverse environmental effect, for the reasons listed below:

- *Flooding: In the event that the flood model used for the design and assessment of effects is not suitable or fit for purpose to inform the design, or it has not been interpreted adequately or correctly in terms of effects of the proposed works on surrounding properties, we consider the proposed works could have significant adverse flooding effects on adjacent, downstream and/or upstream landowners.*



- *Erosion and sediment control: Due to the large extent of the proposed works within the bed of the Pinehaven Stream, and the duration of the stream works (up to two years), we consider that the activity could have significant adverse effects on the water quality of the Pinehaven Stream and downstream receiving environments (Hulls Creek and the Hutt River).*

Point 3(b) from your letter: Peer reviews and reports are different products. Section 92(2) refers to reports. Reviews of reports are a core part of processing an application and the clock should not stop for this work to occur.

Both the terms 'review' and 'report' have been used throughout the section 92(2) letter dated 24 September, due to the request to experts to review the information and produce a memo report on the matters requested.

Request to withdraw section 92(2) notification letter dated 24 September 2019

We consider the request to commission reports under section 92(2) of the RMA is justified and reasonable, and do not consider it is appropriate to withdraw this notification.

WWL have rejected the commissioning of the technical reports under this section, as provided for by section 92B(1) of the RMA, so the application was taken off hold on 24 September and will continue to be processed under section 104 of the RMA.

Agreement to progress peer reviews

Thank you for your agreement to the following peer reviews:

- a) Flood model and Flood Hazard Assessment by Mike Law, Beca Limited (as per email dated 9 October 2019)
- b) Erosion and Sediment Control by Gregor McLean, Southern Skies Limited (as per letter dated 10 October 2019)
- c) Terrestrial and riparian ecology by Frances Forsyth, Wildlands (as per email dated 9 October 2019)

In response to point 13 of your letter, Harriet Fraser would be undertaking the peer review. Her review would be looking at the proposed access arrangements for the on-site works to determine whether they will operate in a safe and efficient manner and whether the proposed conditions of consent address the resulting traffic effects from the proposed works. We understand that you have agreed to this assessment.

Section 88

I confirm that for the purposes of the Greater Wellington Regional Council resource consent application, I consider the information provided within the application is sufficient for the application

to be accepted under Section 88 of the RMA. The application was accepted by GWRC as complete on 24 September 2019 when I requested the commissioning of reports under s92(2).

James Beban provided confirmation via email on 11 October 2019 that for the purposes of the Upper Hutt City Council Notice of Requirement Application, the information provided within the application was sufficient for the application to be accepted under Section 88 of the RMA.

Consenting timeframes

Whilst GWRC had not received the consent application fee by this date, I consider that 24 September 2019, when GWRC accepted the application under s88, initiated the consenting timeframes (day 0).

Section 88C(5)-(6) of the RMA outlines the excluded time periods in the event that an applicant does not agree under section 92B(1) to the commissioning of a report, which are described to start with the date of notification under section 92(2)(b) (24 September 2019) and end with the date on which we received your refusal to agree to the commissioning of the report (10 October 2019).

As such, we consider that day 1 of the processing of this resource consent was 11 October 2019.

Consenting process

Following your rejection of the review reports under section 92(2), you've requested the consenting process will follow the steps as outlined in section 7 of your letter:

- a) Application is notified
- b) Peer reviews are completed
- c) Council issues a section 92(1) request
- d) Notification closes
- e) Further information is provided by the applicant
- f) Section 42(A) process commences.

As discussed previously, we recommend that the peer reviews are completed prior to, and provided as part of, the public notification of the consent. This would involve the review comments from the technical reviewers, issuing of a section 92(1) request for further information, your response to this request, and finalisation of the technical review memos.

Following discussions on 18 October, we understand that you would like to proceed to notification as quickly as possible.

Subject to there being no ‘show-stoppers’ as described below, we intend to follow the process outlined below:

- a) Council feeds peer review reports and requests for further information through to the applicant as the peer reviews are completed
- b) Council issues a formal section 92(1) request for further information (expected to be 13 November 2019)
- c) Staggered further information responses to be submitted to Council as they are completed
- d) Application is notified (19 November 2019)
- e) Final requests for further information sent to the applicant
- f) Notification closes (18 December 2019)
- g) Final further information received from applicant.
- h) Peer reviews are completed
- i) Section 42(A) process commences.

Proposed date for public notification of the consent application

Section 95 of the RMA states that the consent authority must decide whether to give public notification of an application and notify the application if it decides to do so, 20 working days after the application is first lodged. As described above, day 1 of the consent processing timeframe was 24 September 2019 and the applicant has requested the application be publicly notified.

As discussed on 18 October, we agreed to notify the consent depending on the initial feedback of the flood model review by Mr Mike Law of Beca Ltd. If the review did not highlight any ‘show-stoppers’ then we would proceed to public notification. If it identified any ‘show-stoppers’ or further information that would be required which could result in material changes to the model and/or effects assessment, then we would not notify the consent until this has been rectified. Mr Law’s review is due with us on 8 November 2019 (day 20).

As such and discussed at the meeting on 1 November 2019, we request a section 37 extension of seven working days to receive and review Mr Law’s review, and depending on the outcome finalise the public notification for the 19 November 2019 (day 27). Please advise as soon as possible whether you are agreeable to the requested section 37 extension.

The local newspapers which have been identified to publish the notice in are the Dominion Post (Tuesday 19 November), Hutt News (Tuesday 19 November) and Upper Hutt Leader (Wednesday 20 November). We recommend a notification period of 21 days (Wednesday 18 December, 20 working

days from publishing in the Upper Hutt Leader). Please advise whether you agree with this extended notification period.

Appointment of Commissioners

As discussed in our meeting on 18 October 2019, we are looking to engage three commissioners for the hearing. We will let you know who we will be engaging as commissioners once they have been confirmed.

Yours sincerely



Josie Burrows
Resource Advisor
Environmental Regulation
Greater Wellington Regional Council



James Beban
Senior Planner
Urban Edge Planning
On behalf of Upper Hutt City Council