

IN THE MATTER of the Resource Management Act 1991 (**RMA**)

AND

IN THE MATTER of **310 Riverview Road, Huntly** (APP144475 and LUC0488/22)
Gleeson Manged Fill Limited seeks consent to establish and operate a managed fill disposal activity. District and regional land use consents are required.

DIRECTION No. 2 FROM THE HEARING PANEL

1. Pursuant to section 34 and 34A of the RMA, Waikato District Council and Waikato Regional Council ('WDC and WRC') have appointed a Hearing Panel, consisting of Mrs Cherie Lane (Chairperson), and Independent Hearing Commissioners, Mr Shane Solomon and Dr Ngaire Phillips, for the joint hearing of an application by Gleeson Managed Fill Limited. The Hearing Panel's function is to hear the application and submissions and to make a decision on the proposal. It is also to deal with any procedural matters.
2. At the conclusion of the hearing on 8 December 2022, the Panel adjourned the hearing, with the understanding that further information was to be provided by the Applicant as part of the Applicant's written reply. The Panel also understands that advice is to be provided from legal counsel, Waikato District Council, 'WDC', (as addressed verbally at the hearing); and from the reporting planner (WDC) in respect of draft stormwater conditions. The purpose of this direction is to record those matters and to identify timeframes to the close of hearing.

Background - Time Frame Extensions

3. By way of background to this Direction, the Panel confirms that we are conscious of the statutory timeframes applying within this Christmas period and therefore the associated likely availability limitations for Council staff in reviewing updated draft conditions, as anticipated to be provided by the Applicant. Consequently, we consider that we are not in a position to expect a specific date for receipt of the Applicant's right of reply; nor, as a consequence, to set a date for the close of hearing.
4. The Panel is mindful of the statutory obligations under s21 and s37A RMA, to avoid unreasonable delay in the exercise of our function in hearing this application. We consider that the complexity of this application, the necessity to receive all relevant information in order to make this decision, and the effect of the Christmas period, requires a degree of flexibility in receipt of this information and the extension of timeframes.
5. At the hearing, the Applicant indicated a date of 20th January 2023 to provide its written reply submission. As part of the previous Direction, dated 4th November 2022, (which included the change to the date of the hearing at that time), the timeframe in which the hearing must close was extended, to Thursday 22 December 2022; this being after the statutory timeframe, 1st

December 2022 (being 75 working days after the close of submissions). This timeframe has been acknowledged by the Applicant as no longer achievable, and, we therefore understand, agreement is given by the Applicant to a further extension to the close of hearing date (pursuant to s 37A (5)). On this basis the Panel provides the following directives to the close of this hearing.

Additional Information

6. The Panel anticipates that the following information, as canvassed at the hearing, is to be provided by the Applicant. This is not intended as an exhaustive list, but rather to assist all parties in referencing particular matters raised and discussed at the hearing:
- Ecological Management Plan to be updated, specifically with regard to recommendations made by Envoco in their Ecological Compensation monitoring report (such as fish monitoring and fish ladders)
 - Method and associated consent condition for hydrogeological survey for FA2 prior to works being undertaken
 - Updated Surface Water Sampling and Analysis Plan (SAP) to specify the appropriate monitoring method for Aluminium, whereby it was recommended that a suitable trigger level be developed for aluminium which reflects the “truly dissolved” (and hence most bioavailable) fraction of aluminium, as is measured when using a 20K MWCO filter
 - Greater detail on a protocol for the acceptance of marine sediments
 - Detail on the treatment of acid sulphate soils, and associated runoff control. And further details on the manner in which the acid sulphate treatment pad would be sized and located, which may be part of the respective management plan
 - Approach for developing waste acceptance criteria for contaminants not listed in the WAC table; with this assessment included as a management plan condition
 - Consideration to a requirement that a stormwater assessment be undertaken prior to works commencing
 - Consideration to undertaking a hydrological assessment of the current sites as a basis for assessing any effects
 - Consideration as to the requirement that a stormwater engineer provides an assessment of the application
 - Timing and methodology of slope stability assessment of FA4
 - Review geotechnical implications of FA3, given its identification as being a part of the wider historic mine fill location

The Panel clarifies that the above is not intended as a request for further information. Rather, it serves as our understanding of information and clarification offered by the Applicant in response to matters raised at the hearing.

7. We anticipate that in the process of considering these matters, some may result in an updated set of draft conditions being proposed. It is expected therefore that any proposed changes, offered by the Applicant, to the current recommended draft conditions, be reviewed by Council advisors. It is necessary and appropriate that this review be undertaken prior to the Applicant’s reply submission. We appreciate that this has implications for the timeframe for the close of this hearing.

Timetable

8. In light of anticipated draft condition changes and our requirement for these to be reviewed by the respective Council advisors, along with the Christmas period staff availability circumstances, we set out a timetable below to assist in progressing this hearing.
9. The date (to be set) for the close of hearing, will be dependent on this timetable. The hearing therefore remains adjourned; with the close of hearing to be confirmed upon receipt of all material necessary to complete this hearing.
10. The Hearing Panel therefore directs the following:
 - The Applicant is to provide its amended draft proposed conditions to the Hearing Advisor as soon as they are completed. The Hearing Advisor will provide them to the Councils' s42A officers and to the Hearing Panel.
 - Council officers are to review the Applicant's amended draft proposed conditions and respond to the Applicant and the Panel.
 - Upon receipt of the amended draft conditions, Council officers are to inform the Hearings Advisor, as to when this review of the amended draft conditions is to be completed. It is expected that this advice would be provided without delay and the review undertaken as expeditiously as possible.
 - The Applicant's written reply is expected after receipt of the Councils' draft condition review.
 - Once the above time frames are known, the Panel will be able to set a close of hearing date, having regard to and being mindful of the statutory requirements within the allowable and reasonable timeframe extension for the closure of the hearing. In the meantime, the hearing is adjourned.
11. The Panel advises that the above information will be made available to all parties on receipt. However, it is not seeking further comment from submitters to these updated draft conditions.
12. Any enquiries regarding this Direction or related matters should be directed to Mr Steve Rice, Hearings Advisor, at steve@riceres.co.nz and copied to: Democracyservices@waikatoregion.govt.nz



Cherie Lane

Chairperson

For the Independent Joint Hearings Panel, being Cherie Lane, Shane Solomon and Ngairé Phillips

19th December 2022