

25 August 2021

Ministry for the Environment
PO Box 10362
Wellington 6143
New Zealand

Attn: Jo Gascoigne, Director – Natural and Built System and Urban Water

Email: jo.gascoigne@mfe.govt.nz

Dear Ms Gascoigne

Additional information regarding request for extension of time under Clause 10A, Schedule 1 of Resource Management Act 1991

Thank you for your letter dated 10 August 2021, responding to Waikato District Council's request to the Minister for the Environment for a four-month extension until 17 January 2022 for Council to release its decisions on submissions to the Proposed Waikato District Plan.

In your letter, you requested the following additional information to assist the Minister in deciding on Council's request for an extension under Clause 10A, Schedule 1 of the Resource Management Act 1991:

- a. how the time extension sought until 17 January 2021 [sic] relates to the Council's process to issue a decision, including any delegated responsibilities to the hearings panel.
- b. how the Council has taken into account the interest of persons who may be directly affected by the extension, under Clause 10A(3)(a), ie, what conclusion has the Council drawn? What is the Council's view on the scale or significance of the impacts of the delay on those persons' interests?

In terms of the first point I wish to advise the independent hearings panel has full delegation from Waikato District Council to make decisions on the Proposed District Plan; there is no further level of decision-making required.

The attached timeline provided by the project team to the District Plan Steering Group in May 2021 indicates the detailed steps planned between the conclusion of hearings on 14 July 2021 and notification of the decision on 17 January 2022. This includes completion of decision-writing, translation of decisions into the National Planning Standards format, preparation of the notification documents, development of guidance material such as a 'road map' to show how notified provisions have landed in the National Planning Standards format, and a small contingency period which also ensures avoidance notification just prior to the Christmas shut-down period.

I trust that this additional detail will provide reassurance that the Council has carefully considered all the steps necessary prior to notification of decisions and allowed sufficient time for these while proceeding without unreasonable delay.

In terms of the second point regarding consideration of the interest of directly affected persons under Clause 10A(3)(a), I would like to expand upon and clarify the following text from the second attachment to my letter of 12 June, which stated:

- “Council has taken into account the interests of persons, who, in its opinion, may be directly affected by the extension. Council considers all persons who submitted on the Proposed District Plan may be directly affected by the extension of time sought. However, Council does not consider any individual submitters to be more affected than any other submitters. This issue affects the whole of the district.”
- “Council has, in particular, taken into account the interests of the communities who have worked with Council to develop the Proposed District Plan, particularly the townships in the northern part of the district (i.e. Tuakau and Pokeno), where growth has occurred at a faster rate than the Franklin District Plan anticipated, and there is a strong need for the further re-zoning of land in order to meet our obligations under the National Policy Statement for Urban Development 2020.”

Upon further reflection, the conclusion that Council does not consider any individual submitters to be more affected than any other submitters should be qualified. There are undoubtedly many submitters who are looking forward to what they hope will be a favourable outcome with regard to their submissions. Some of them may consider themselves to be materially disadvantaged by any delay beyond September, to the extent that they have programmed consent applications or building works, and/or forecasted revenue based on the September decision date.

Council acknowledges that it has previously committed to an earlier decision date. This was included in an overall analysis of the costs and benefits associated with a proposed 17 January 2022 extension, as per the following excerpt in a May 2021 memo from the project team to the District Plan Steering Group:

Benefits	Costs/risks
<ul style="list-style-type: none"> • Provides adequate time to ‘give justice to’ the decision writing. Having invested in a very thorough hearings process, and high-calibre commissioners, it would be a shame to rush the decision writing and integration. • Reduce risk (and cost) of appeal if decision is well considered, written and integrated. • Completely avoids the Christmas period for appeals and s274 notices. 	<ul style="list-style-type: none"> • Extends the project, resulting in adding cost and delaying the release of a modern plan. • Continued legacy issues with current ODP. • Doesn’t meet the 18 September 2021 deadline, breaking the promise we’ve made to submitters and the community, resulting in reputational damage. • There is a risk that this further extension could impact WDC’s reputation with the Government.

Without conducting a survey of all submitters, it is difficult to know how many of them would prefer a rushed (September 2021) decision that would not be in the National Planning Standards format, versus those who would prefer a January decision date that would not require a future plan change for conversion of the entire District Plan into the National Planning Standards format. Allowing for more time for the hearing panel to prepare its decisions would also ensure better consideration of the provisions. This would in turn help mitigate the number of appeals that may be lodged based on drafting errors or conflicting technical points. Council has considered the fact that provisions in a decision are not treated as operative until they are beyond appeal, and that if any errors were made in the drafting process in order to achieve the September decision date, even a relatively timely correction through appeals would extend the operative date for those provisions beyond January. On balance, Council has drawn the conclusion that more submitters would benefit from the extension of time than would be disadvantaged by it.

Other persons directly affected by the extension of time include the communities of Tuakau and Pokeno, mentioned above, where growth pressures require extensive rezoning to achieve the National Policy Statement – Urban Development. Allowing this additional land to be developed is important not only for developers from a financial perspective, but also for the wider community from a housing affordability perspective. The same is true in other parts of the district where growth pressures and housing affordability issues exist. Again, however, on balance Council has drawn the conclusion that the extension will provide more advantages than disadvantages for both developers and the wider community, because it will allow for a

more robust set of provisions that are less likely to be appealed - at least not due to drafting errors – and therefore to be treated as operative sooner.

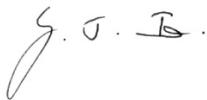
The interests of mana whenua have also been considered. Mana whenua interests are as varied as the wider community, encompassing development aspirations as well as environmental, social and cultural interests. An easier pathway for papakainga housing is one example of provisions in the Proposed District Plan that many mana whenua will be looking forward to, sooner rather than later. As with the wider community, Council believes that mana whenua interests are better met, on balance, by the four-month extension sought, which should lead to many important provisions being treated as operative sooner, rather than subject to appeals on drafting errors or conflicting provisions.

In summary, Council has considered the interests of any person who, in its opinion, may be directly affected by an extension, and has concluded that the scale and significance of any negative impacts on affected persons is at a modest level overall that does not outweigh the benefits of the extension of time requested.

I trust that this further explanation of Council's consideration of potentially affected persons can provide the Minister with assurance that the decision to request this extension of time was informed by a careful consideration of the advantages and disadvantages for various categories of persons and, in particular, the requirements of Clause 10A, Schedule 1 of the RMA.

As always, if you require any further information or clarification, please do not hesitate to contact me. I look forward to the Minister's response.

Yours faithfully



Gavin Ion
CHIEF EXECUTIVE

Appendix I – Details of Panel’s preferred timeline (from May staff memo to District Plan Steering Group)

14 July - Hearings conclude

- ➔ Focus moved exclusively to drafting. The last decision drafting starts on 14 July with an allowance of 6 weeks to draft, plus 6 weeks to review and receive panel approval.

5 October - Completed individual decision reports

Deliverables:

- All individual decisions reports are drafted.
- All notified plan chapters are showing draft track changes.
- ➔ Focus moves to reviewing for internal consistency, proof reading – 4 weeks to complete this.

5 November – Completion of decision reports package and completion of provisions in notified plan format.

Deliverables:

- 1x Overview report – Final draft Word doc for proofing.
- Numerous x decision reports with reasons and s32AA. Final draft Word docs for proofing.
- Track changed provisions in notified format – final PDF, LOCKED.
- Clean version of changed provisions in notified format – Final Word doc, LOCKED.
- “PWDP (Decisions Version)” planning maps in Planning Standards format. Final Intramaps, LOCKED.
- ➔ Focus moves to conversion of provisions into planning standards format – 2 weeks for conversion, 4 weeks for technical review from the Chair and Deputy Chair of the Hearing Panel. Alongside format, proofread and PDF decision reports. Alongside creating PDF planning map tiles.

20 December – Completion of conversion into planning standards

Deliverables:

- “PWDP (Decisions Version)” in Planning Standards without track changes. PDFs of chapters.
- Updated “Road map” showing where notified sections have moved to in Planning Standards format. PDF.
- ➔ Focus moves to finalisation of administrative tasks / website.

Christmas period – contingency time if required.

10 January 2022 - Final PWDP (Decisions Version) package due with Admin

Online only, not printed:

- 1x Overview decision report. PDF.
- Numerous x decision reports with reasons and s32AA. PDF.
- Track changed provisions in notified format – no status/for reference. PDF.
- Clean version of changed provisions in notified format – no status/for reference. PDF.
- “Road map” showing where sections have moved to in Planning Standards format. PDF.
- “PWDP (Decisions Version)” in Planning Standards without track changes – PDF (to load into eplan later).
- Database with accept/reject for each submission point. Consult24 + exported PDF.
- “PWDP (Decisions Version)” planning maps in Planning Standards format – PDF & Intramaps.

One week contingency

17 Jan 2022 - Notify Decision version

- ➔ Focus moves to entering Decisions Version provisions in e-plan.

1 March 2022 - Appeal period closes

- ➔ Focus moves to editing e-plan to create Appeals Version.

21 March 2022 – s274 period closes