

IN THE MATTER OF the Resource Management Act 1991
AND
IN THE MATTER OF 24 applications by the Aupouri Aquifer
Water User Group to the Northland
Regional Council to take groundwater
from the deep shell bed aquifer of the
Aupouri Peninsula (REQ.596300).

SECTION 41C RESOURCE MANAGEMENT ACT 1991
MINUTE AND DIRECTION #7
HEARINGS COMMISSIONERS

1. On 13 May 2021 counsel for the applicant filed a memorandum indicating the following proposed timetable:
 - A supplementary s42A report is to be produced by 28 May 2021 addressing the reporting officers' position in light of the process since the hearing was adjourned and attaching recommended GMCPs and consent conditions.
 - Reply submissions from submitters (and any further evidence strictly in reply) by 4 June 2021.
 - Applicants' reply submissions (and any further evidence strictly in reply) by 11 June 2021.
2. In response, by memorandum dated 14 May 2021, counsel for the D-G of DoC sought clarification as follows;
 - a. As well as "reply" submissions, submitters may also make supplementary submissions on the National Policy Statement (and Environmental Standards) on Freshwater Management and recent Environment Court determinations on the Proposed Regional Plan for Northland (offered in earlier DOC Memoranda and accepted in the Commissioners' Minute #5 paragraph 4).
 - b. Evidence "strictly in reply" (Counsel for the Applicants' words) will include evidence on the Officer's amended (recommended) consent conditions and GMCPs. The supplementary Officer's Report constitutes additional evidence introduced part way through the hearings process and it is fair that submitters be given the opportunity to put further evidence in response.).
3. Counsel for the D-G also noted that the timetable proposed makes no allowance for the conclusion of the planner's expert conferencing, currently in train, and due consideration of any Statement produced.
4. This memorandum was followed up with a second memorandum from counsel for the D-G on 14 May 2021 suggesting a revised timetable adding in that the applicant's revised (updated) set of consent conditions and GMCPs be provided by 20 May 2021.

Panel directions

5. The Panel agrees with the timetable proposed in paragraph 1 above and direct accordingly.

6. With respect to paragraph 2a, the Panel's Minute #5 paragraph 4 stated:
Lest there be any misunderstanding, we note that we have not yet determined whether consent to some or all of the applications is possible, and anticipate further legal submissions in due course on the question of adaptive management, the National Policy Statement (and Environmental Standards) on Freshwater Management, and the recently settled Water Use, Allocation and Quantity section(s) of the Northland Regional Plan.
7. The Panel accepts that the legal submissions thereby anticipated may require counsel to adduce further evidence. However, that was not and is not intended to open the process up to general submissions on those matters. Once we receive those legal submission we may determine that further evidence is required – which would then open up the matters for further submissions from parties - but that should not be assumed.
8. With respect to paragraph 2b, the Panel does not see the supplementary report as constituting evidence requiring submissions. We anticipate that report being largely factual and noting any change in the author's earlier position and recommendations. In effect, and acknowledging that this present process is protracted, that is no different to the normal hearing process whereby the council reporting officer responds to the material heard prior to final reply being given by the applicant.
9. With respect to paragraph 3, we require the planners' Statement (which we envisage being no more than a revised set of draft conditions with annotations relating to areas of and reasons for disagreement) to be completed no later than 4pm Thursday, 20 May 2021 (which mirror's the second 14 May memorandum). We accept that not all matters may be resolved by then, in which case, if those experts signal that resolution on significant disagreements is achievable with extra time, they may to seek leave for that purpose. The Panel will then consider adjusting the above timetable accordingly.
10. The hearing remains adjourned in the meantime.
11. Any correspondence relating to this Direction is to be sent through Ms Alissa Sluys, Hearing Administrator, Northland Regional Council, alissas@nrc.govt.nz .



David Hill
Chair, Hearings Panel
14 May 2021