

1. Determination on request for adjournment of hearing

1. Further to our Minute 1 dated 22 September 2022, we sought feedback from the applicant and other submitters on the request by Clare Holden and Michael Wilson (dated 20 September 2022) seeking that the hearing scheduled for 3-5 October 2022 be adjourned. The following feedback was received (in summary):
 - a. The applicant confirmed their opposition to an adjournment, on the basis that:
 - i. There is a risk that the statutory timeframe for completion of the hearing (within 45 days after closing date of submissions) would not be met and the applicant did not support an extension on the political/future funding grounds raised;
 - ii. There are no special circumstances that support an extension without the applicants agreement;
 - iii. The actions and decisions of future elected members in relation to implementing the project (if resource consents were to be approved) are not relevant matters under the Resource Management Act (RMA); and
 - iv. The costs associated with the hearing are a small proportion of the costs already incurred in the design and application to this point, so delaying the hearing would only add further cost and time to the process
 - b. Fred Davey and Brenda Farrell support an adjournment.
 - c. Murray Guy supports an adjournment.
 - d. Bruce and Clodagh Barnett on behalf of Collie Properties Limited support an adjournment.
 - e. Andrew and Leeana Burgess support the adjournment request and commented:
 - i. There is a requirement for the applicant to make prudent use of ratepayer funds and consider it is unlikely that elected members will release further funding making it impossible for the project to proceed.
 - ii. They refer us to Section 18A Procedural principles of the RMA requires those exercising powers to take all practicable steps to use timely, efficient, consistent, and cost-effective processes that are proportionate to the functions or powers being performed or exercised.
 - f. Zena Knight supports an adjournment and raises a further procedural issue which is addressed below.
2. We find that there are no special circumstances present to justify an adjournment. The political and future funding grounds outlined by Clare Holden and Michael Wilson and the comments from Andrew and Leeana Burgess are not in our view relevant to our role. Our role is to determine the resource consent application, and our remit is limited to environmental effects and consistency with relevant planning documents and the RMA. The relevant environmental and planning issues in this case do not appear to be of a scale or complexity that support an extension in accordance with section 37A of the RMA, and nor has this been suggested by any party.

3. In terms of Section 18A, our duty is to be timely, efficient and cost-effective in our handling of the hearing, so in this regard, an adjournment may in fact add to the consent processing costs, as noted by the applicant.
4. We agree with the applicant that the future actions of the applicant in relation to implementing the project (if resource consents were to be approved) are not relevant matters under the RMA.
5. We therefore decline the request for an adjournment by Clare Holden and Michael Wilson and confirm that the hearing will proceed as scheduled on 3 October 2022, commencing at 10.00am. An agenda for the hearing will be issued later this week.

2. Procedural issue related to serving of documents on Zena Knight

6. Correspondence from Zena Knight has raised a further procedural issue relating to non-service of some hard copy documents within the required timeframes. We are guided by Emma Bean, the Resource Consents Service Planner on the following:
 - a. Zena Knight received the notice of hearing which confirmed hearing date and the due date for any expert evidence she wished to commission.
 - b. The Council's section 42A (officer's recommendation report) and applicant's expert evidence was not supplied by the dates required under section 103B of the RMA. These documents were subsequently supplied to Zena Knight on 23 September 2022 (11 days later in the case of the section 42A report being posted online).
7. We are unclear whether this submitter had intended, or intends to call expert evidence (as indicated in her primary submission), noting she was presumably aware of the due date for this, from the notice of hearing which confirmed this.
8. We note the applicant has helpfully indicated their willingness to accommodate measures to ensure that Zena Knight is not disadvantaged by the error relating to document service.
9. We therefore suggest the way forward is for Zena Knight to advise at the beginning of the hearing on 3 October 2022 (or prior to this) her position with regard to hearing preparation, in particular whether any expert evidence is to be called. If there is expert evidence proposed we will consider deferring the third day of the hearing, currently scheduled for 5 October 2022 as needed to accommodate this to a date later in October 2022, but no later than 10 working days, being the 20th October. We will determine this as a preliminary issue at the start of the hearing, on 3 October 2022, with input from other parties as needed.
10. If we decide it is necessary to accommodate the submitter's expert evidence in response to the section 42A report and applicant's evidence, we would provide an opportunity for the council reporting officers to respond and for the applicant's right of reply to occur at the later date also, but would proceed with the bulk of the hearing on 3-4 October 2022 as we consider at this stage, that the remainder of the hearing, including any lay evidence from Zena Knight can proceed as scheduled.

11. A reminder that any correspondence with us should be directed through Emma Bean via emma.bean@kapiticoast.govt.nz

Mary O'Callahan

Independent Commissioner (Chairperson)

Linda Kerkmeester

Independent Commissioner

Jade Wikaira

Independent Commissioner