

OTAGO REGIONAL COUNCIL
RESOURCE MANAGEMENT ACT 1991 (RMA)
HEARING OF RESOURCE CONSENT APPLICATION

MINUTE #3 OF THE HEARING COMMISSIONER

1. The Otago Regional Council (ORC) appointed me to hear and decide the application lodged by the Clutha District Council (the Applicant) to discharge treated wastewater from the Waihola Wastewater Treatment Plant (the WWTP) to water. This application is referenced by the ORC as RM15.364.
 2. A hearing was held on Monday 24 January 2022 in Dunedin. Towards the end of the hearing I set down a timetable for further information to be provided by various parties and a date for the Applicant's written right of reply to be delivered.
 3. I have now received the Applicant's written right of reply, however there are a number of matters in that reply which have prompted the need to issue this Minute.
 4. Ms Vaughan's statement of evidence stated [at paragraph 22] "*...CDC is prepared to amend application RM15.364 for the renewal of the Waihola discharge to reduce the volume of discharge sought to the levels currently being discharged and to a reduced duration to enable the activity to continue while a more effective solution is sought*". The question of what constitutes the volumes/rates currently discharged from the WWTP formed the basis of the further information that Dr Greer provided and also the wording of Condition 1 which was worked on during the expert conferencing undertaken by the planners.
 5. The written right of reply, also prepared by Ms Vaughan (possibly with the help of Mr Essenburg as his name is on the front page, however neither his name nor his signature appears on the final page), clearly seeks that the consent should not only authorise the current discharge but also provide for future growth. Paragraph 4 of the right of reply states "*...it is estimated that a further 50 to 60 Lots (at least) will required [sic] connection to the Wastewater System*" and that "*It is anticipated that the minimum dry flow [sic] will be 312 m³/day*" (no calculations were provided as to how this figure was arrived at). Further, in paragraph 22 of the right of reply Ms Vaughan states "*In the next 5 years it is predicted in the AMP that there will be up to 368 connections*". The right of reply also outlines the implications of having the discharge limit proposed by ORC staff and these would include, *inter alia*, curtailing future urban growth. This position is clearly at odds with Ms Vaughan's evidence presented at the hearing and presented which confirmed the Applicant was amending its application to authorise the volumes 'currently being discharged'.
 6. I also note that paragraphs 4 and 20 of the right of reply both refer to proposed limit set by the ORC of '*160 m³/day*' and that this is not possible to meet due to wet weather events. I am unsure why the right of reply considers the 160 m³/day to be ORC's recommended limit(s) because, according to the Joint Witness Statement prepared by the planners, it was Ms Vaughan who preferred 160 m³/day as a limit and both Messrs. Henderson and Vial preferred 128 m³/day, both in terms of the limit for the 'annual average rate' up until 31 December 2024 and then a maximum rate from 1 January 2025. Further, in paragraph 22 of the right of reply Ms Vaughan states "*CDC consider 250 m³/day will limit the planned growth in Waihola*" and it is unclear to me where the 250 m³/day comes from as it has not been presented elsewhere in the evidence or the right of reply.
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7. A further point of confusion relates to the terminology used for the discharge volumes/rates. The right of reply refers to discharge rates variously as 'minimum dry flow' (paragraph 4) and 'dry weather flow' (paragraph 20), which I understand are probably the same (and more commonly referred to as 'average dry weather flow', or ADWF). However, this appears to be a different metric to that used in proposed/recommended Condition 1, which is based on 'annual average rate' (which I believe should actually be the 'annual average daily rate') – my understanding being that this rate is calculated using all daily discharge volumes, including discharges during days with rain occurring, whereas an ADWF is normally calculated using the daily discharge volumes on days where there has been no rain (usually with an associated definition of what constitutes a dry weather day).
 8. I require clarification on a number of matters before I can make my decision. I outline these below in the order I wish them to be addressed, including the date by which responses are to be received.
 9. I request that **Dr Greer** confirms, or otherwise, that the 'annual average discharge' volumes in Table 3 of his letter to me dated 24 February 2022 are: 1) annual average daily discharge volumes; and 2) calculated by dividing the yearly discharge volumes by 365 – that is, both dry weather and wet weather discharge days are included in the calculation. Due date: **Tuesday 29 March 2022**.
 10. I request that **Messrs. Henderson and Vial**, confirm, or otherwise, that the intent of recommended Condition 1 (as supported by them) is that the Applicant would undertake works between the granting of this consent and 31 December 2024 to reduce infiltration and inflow (I/I) such that the maximum daily discharge from 1 January 2025 onwards needs to be less than 128 m³/day (a reduction from the 680 m³/day that would apply up until that date). If that is the intent of Condition 1, then I question how achievable that limit is given the evidence provided by the Applicant as to the extent of I/I issues and the likely success of addressing I/I over the next two and half years – I ask that Messrs. Henderson and Vial provide their opinions on this and if it is not achievable to recommend an alternative Condition 1. Due date: **Thursday 31 March 2022**.
 11. I request the **Applicant** explains why it has changed its position from that outlined in paragraph 4 (above) to one which now seeks the consent to provide for urban growth and further connections to the WWTP. Due date: **Friday 1 April 2022**.
 12. I request the **Applicant** provide/confirm the volumes/rates it is seeking to be authorised by this consent, including full calculations or evidence to support those. The volumes/rate must be provided in terms of some form of average daily rate and a maximum daily rate. For the average daily rate, information should be provided as to whether this is an ADWF (and if so what definition of dry weather day is assumed) or an average based on all discharge days (i.e. per Dr Greer's). Due date: **Friday 1 April 2022**.
 13. Paragraph 20 of the right of reply states that if 80% of the 217 properties discharge to the WWTP it would result in a dry weather flow of 218 m³/day (which I assume to be a theoretical/calculated value, excluding I/I). That rate is significantly greater than the annual average (daily) discharge volumes calculated by Dr Greer, noting that his calculations are based on actual measured discharges from the WWTP an include all discharge days, and therefore include I/I. This would suggest that the per capita (or per connection) wastewater allowances used to calculate the 218 m³/day are significantly greater than those actually generated within the Waihola community. That being the case, I question whether the anticipated 312 m³/day stated in paragraph 4 of the right of reply is realistic (it would appear to be a significant overestimate). I request the **Applicant** provide comments regarding this apparent discrepancy between theoretical volumes and actual volumes. Due date: **Friday 1 April 2022**.
 14. I request **Dr Greer** provides any additional comments on the Applicant's responses to my paragraphs 12 and 13 above in terms of: 1) justification and basis of the volumes/rates being sought; 2) discrepancy between the actual discharge rates vs any theoretical rates the Applicant has calculated; and 3) an
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opinion on the potential adverse effects of the requested discharge rates (assuming they are greater than those already assessed or commented on in documents provided following the hearing). Due date: **Friday 8 April 2022.**

15. All responses should be submitted to Ms Bagnall of the ORC who will circulate them to all the parties and myself.
16. If any party wishes to seek further clarification in relation to this Minute please contact Ms Bagnall in the first instance, email: karen.bagnall@orc.govt.nz or phone 0800 474 082.

DATED 25 March 2022

A handwritten signature in black ink, appearing to read 'Rob Loeffering', written in a cursive style.

Dr Rob Loeffering
Independent Hearings Commissioner