

Jacob Paget

From: Amy Dresser s 9(2)(a)
Sent: Friday, 2 September 2022 12:08 pm
To: Samantha Maxwell
Cc: Stephanie de Groot; Jess Hollis; Fast Track Consenting
Subject: RE: [COMMERCIAL] Waikanae North - wetlands issue [MERWNZ-MERWLIB.FID629819]

Kia ora Samantha

Thanks for your time to discuss this issue this morning.

We understand that the Waikanae North project site includes potential wetlands. Some activities on wetlands are prohibited under the Resource Management (National Environmental Standard for Freshwater) Regulations 2020 (NES-F), and a project cannot be referred to a panel under the FTCA if it includes any prohibited activities (s 18). The applicant has obtained an ecological report from WSP the effects of the proposed development on the wetland have been assessed as low, and includes recommendations for compliance with NES-F. On the basis of this advice the applicant considers that the project will not include any prohibited activities under the NES-F.

MfE asked Greater Wellington Regional Council (GRWC) whether it agrees with or accepts WSP's assessment and agrees with the applicant that the project will not involve a prohibited activity under the NES-F. GRWC has advised that it cannot confirm agreement with the applicant's position until it has undertaken a site visit.

You have asked us whether the Minister can refer the project, in reliance on the applicant's expert's view that the application does not include prohibited activities, despite not receiving confirmation from GRWC.

To summarise, consistent with our discussion this morning, we consider that it is reasonable for the Minister to accept that the application does not include any prohibited activities and the application is not prevented from being referred to a panel under s 18 of the FTCA.

- This is because the applicant has provided a detailed ecological assessment indicating that the project does not include prohibited activities and there has not been any suggestion that the applicant's ecological assessment is inappropriate or incorrect.
- We note that GRWC has declined to take a position on the ecological assessment of the project (including whether the project includes any prohibited activities) until it has undertaken its own site visit. This is reasonable, and we do not consider it would prevent MfE from relying on the applicant's ecological assessment.
- We note that there is a risk that GRWC may take a different view to the applicant on the ecological assessment of the project once it has undertaken its site visit. If this is the case, GRWC will have the opportunity to provide its view when it is invited to provide comments on the consent application before the panel, and the panel can consider the application on that basis.
- To reduce the risk, MfE could ask the applicant to obtain a peer review of WSP's ecology report.

Please let us know if you have any queries. We note that we haven't reviewed the full application, or considered whether it is appropriate to refer or decline to refer the application to a panel on the basis of any other reason.

Kind regards
Amy

Amy Dresser (she/her)

Solicitor

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From: Samantha Maxwell s 9(2)(a)
Sent: Monday, 29 August 2022 12:25 PM
To: Amy Dresser s 9(2)(a)
Cc: Jess Hollis s 9(2)(a); Fast Track Consenting <fasttrackconsenting@mfe.govt.nz>
Subject: [COMMERCIAL]RE: Waikanai North - wetlands issue [MERWNZ-MERWLIB.FID629819]

Kia ora Amy,

The key issue with Waikanae North is that the applicant has provided an ecological assessment prepared by WSP New Zealand Limited that identifies five natural wetlands on the project site. We asked GWRC if they agreed with the assessment of the location and extent of natural wetlands on the project site, and if they agree with the applicant that the project will not involve any prohibited activities under the Resource Management (National Environmental Standard for Freshwater) Regulations 2020 (NES-F). GWRC has not disagreed with the applicant's assessment, they have just said they cannot agree. In all other cases where we have requested a peer review on an applicant's ecology assessment, the relevant council has raised an issue with wetlands on the site. We feel that the combination of the applicants seemingly detailed ecology assessment, along with GWRC neutral stance means it is appropriate to refer it to a panel, but we wanted to confirm you are comfortable with this. I have attached:

- The ecological assessment
- The letter we sent to GWRC
- The response we received from GWRC

I am still collating the previous approaches to wetland issues, but after discussing this with Jess we feel this is a different situation to previous applications. Let me know if you would still like me to send this through when I'm finished, and if you have any questions.

Ngā mihi nui,

Samantha Maxwell (she/her)

Analyst | Kaitātari

Fast Track Consenting Team

Ministry for the Environment | Manatū Mō Te Taiao


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He taiao tōnui mō ngā
reanga katoa.

From: Amy Dresser S 9(2)(a)
Sent: Monday, 29 August 2022 10:29 am
To: Samantha Maxwell S 9(2)(a)
Subject: Waikanai North - wetlands issue [MERWZN-MERWLIB.FID629819]

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Kia ora Sam

Just a quick note to say feel free to get in touch in relation to the Waikanai North project – I'm happy to discuss or give some thought to the wetlands issue.

It will be helpful to see how MfE has previously dealt with uncertainty around wetlands once you have compiled the other projects with similar issues – I recall this issue also came up in relation to the Whisper Creek project, which might be another helpful comparison.

Ngā mihi
Amy

Amy Dresser (she/her)

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