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# Extension of time limit for Decisions on submissions on the proposed Natural Resources Plan for the Wellington Region

**(Sections 37(1), 37A(2)(a) and 37A(6) of the Resource Management Act 1991)**

## Background

The proposed Natural Resources Plan for the Wellington Region (proposed Plan) is a single, integrated plan, to manage all of the natural resources (which the Wellington Regional Council has a function to manage) across the entire region. The process of developing the proposed Plan began with a review in 2009 of the five operative regional plans:

- Regional Air Quality Management Plan;
- Regional Plan for Discharges to Land;
- Regional Freshwater Plan;
- Regional Soil Plan; and
- Regional Coastal Plan.

Following this review, the proposed Plan was prepared. The proposed Plan was publicly notified on 31 July 2015, following the process set out in Schedule 1 of the Resource Management Act 1991 (the Act). A period of 40 working days was provided for submissions (Clause 5(3)(a) of Schedule 1 of the Act) and an additional 20 working days provided to those submitters who requested an extension of time. In total 430 submissions (11,455 submission points) and 96 further submissions (2950 submission points), were received by the Wellington Regional Council.

At its meeting on 30 September 2015, the Wellington Regional Council delegated all necessary powers under the Act to hear and decide the submissions on the proposed Plan to an Independent Hearing Panel (Mark St. Clair (Chair), David McMahon and Elizabeth Burge). From that point on, the Hearing Panel has determined the process to be followed to conduct the hearing and issue its decision on the submissions received on the proposed Plan.

Pursuant to Clause 10(4)(a) of the First Schedule to the Act, the Panel, acting under its delegation from the Wellington Regional Council, must give its decisions on provisions and matters raised in submissions (under Clause 5) no later than two years after notifying the proposed Plan (31 July 2017). This time period was extended on 19 October 2016 by 12 months to 31 July 2018, and further extended on 28 August 2017 to 30 November 2018.

The reasons for the extensions were due primarily to the significance and complexity involved in reviewing and integrating five regional plans including;

- The extended submission timeframe;
- The significant administration associated with the large number of submission points (approximately 11,500 points);
- The requirement to notify an Errors and Omissions Addendum to the Summary of Decisions Requested;
- Enable pre-hearing meetings;
- The structure of the hearings to enable fair participation by submitters across a large region, covering a complex range of topics.

The reasons for the extension granted in 2017 were related to resourcing and the complexity of the process requiring timeframe extensions granted by the Hearing Panel for the provision of s42A officer's reports and consequential delays to hearings. Additional time was also identified as needed to complete the necessary administrative components of the process to notify the Hearing Panel's decision on submissions.

This document records the decision of the Wellington Regional Council to further extend that period by an additional nine months to **31 July 2019**. This will take the total time from the date of notification of the proposed Plan to the decision to a maximum of 4 years.

## **Reasons for extension**

### **Complexity of process**

One of the reasons for the previous time extension related to the significant and complex process associated with reviewing and integrating five regional plans, particularly for participants taking part in the process. This process takes time to complete and hence the extensions were necessary.

The time required to enable the structure of the hearings to ensure fair participation by submitters and to enable officer's sufficient time to prepare s42 officer's reports, remains a reason for a further nine month extension.

Due to the complexity of the process, the hearings have finished much later than anticipated. When the process was first planned, the initial estimate was for hearings to be completed in March 2018, this was later revised to be May 2018. The last hearing date, which is the right of reply (RoR) for Hearing streams 5 & 6, is set down for 17 October. The Hearings were otherwise completed on 1 August, with the expectation that all hearings would be completed on that date. However, for compassionate reasons, an additional 17 October 2018 hearing and timeframe extension for the final right of reply reports was granted due to a bereavement suffered by the reporting officer.

In addition, it has taken longer than anticipated for officers to complete s42A reports. The reports are substantive and many have required additional expert technical reports. During the course of the hearing the Hearing Panel has also directed conferencing of expert witnesses, with associated Joint Witness Statements (JWS). These JWS' assist in informing right of reply reports by officers. The RoR reports must also canvas matters directed by the Panel, matters arising during the course of the hearing and evidence presented by submitters which may change the officer's recommendation. These reports also take considerable time to prepare.

### **Statutory Requirements**

In making this decision the Wellington Regional Council has taken into account the following matters, as required by section 37(A)(1) of the Act:

The interests of any person who the Council considers may be directly affected by the extension

Submitters and further submitters are the most directly affected by the extension of time as they are directly involved in the hearing process, and are impacted by the timing of that process and its outcomes. There will be no impact on submitters needing to be available for any additional hearings as only the reporting officer is required to attend the final right of reply hearing date.

The extension will mean there is an additional nine-month time period during which two sets of planning provisions are relevant before a clause 10 decision is made. This is not considered a significant period of time. An extension of time will ensure a quality process can continue and the decisions will be well considered pursuant to s32 of the Act and written, which will be a benefit to all.

The interests of the community in achieving adequate assessment of the effects of the proposed Plan

One of the key considerations in determining the structure of the hearings was to ensure an adequate assessment of the effects of the proposed Plan's provisions on the interests of the community (given the complex nature and large number of submissions). The proposed structure of the hearings and associated timeframes were one of the most significant contributing factors to the Council being unable to meet the 30 November 2018 timeframe to notify decisions on submissions.

The extension of time is considered necessary to ensure that the interests of the community in achieving an adequate consideration of submissions and evidence, and assessment of the effects of the proposed Plan are met, and to ensure a thorough and robust decision is tested against s32 of the Act. This will be achieved by providing sufficient time to ensure the effects of the proposed Plan are appropriately understood and addressed through the hearing process.

#### The duty under section 21 of the Act to avoid unreasonable delay

All reasonable steps are being taken by the Wellington Regional Council to continue to progress the proposed Plan through the Schedule 1 process to avoid unreasonable delay. The proposed Plan is being progressed by the Wellington Regional Council on an effective and efficient basis, without unnecessary delay. As set out above, the need for additional time has arisen primarily due to the fact that the process is so large and complex, and additional time in a process such as this is not considered unreasonable. Given such scale and complexity, the extended time requirement is considered reasonable for a single, integrated regional plan such as the proposed Plan.

It is noted that this extension doubles the timeframe within which the decision is due, which is specifically provided for under s37A(2) of the Act.

Section 37A(6) requires every person who is directly affected by the extension to be notified. In this instance, and as discussed above, all submitters and further submitters to the proposed Natural Resources Plan are considered most directly affected and shall therefore be directly notified of this extension. In addition, a notice will be placed on the Wellington Regional Council website.

The General Manager, Environment Group, Wellington Regional Council, acting under authority delegated by the Wellington Regional Council, extends the time limit for the proposed Natural Resources Plan Hearing Panel to notify its decisions on submissions by nine months (from 30 November 2018 to 31 July 2019) under sections 37(1) and 37A(2)(a) of the Resource Management Act 1991 for the reasons set out above.



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Nigel Corry  
General Manager, Environment Group

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