



Absolutely

POSITIVELY

ME HEKE KI PŌNEKE
WELLINGTON CITY COUNCIL

Wellington

Tabled 065/109(6)

Memorandum

Date: 17 March 2010

File ref:

To: **Strategy and Policy Committee**

From: **Maria Archer, Manager Infrastructure Planning**

Subject: **Letter from Dr and Mr Warren dated 16 March 2010 re:**

Western Treatment Plant – Environment Court Appeal Options

Councillors,

Dr and Mr Warren are concerned that if the Council agrees to the recommendations in the "Western Treatment Plant - Environment Court Appeal Options" paper this will have an adverse effect on their property.

Conversations have been ongoing with Dr and Mr Warren for some decades regarding access agreements and in the past 18 months there has been a serious effort to resolve this.

Council's legal representative as well as Capacity staff have been in regular discussion with Dr and Mr Warren. A copy of the Committee report has been sent to Dr and Mr Warren although it was not sent directly to their legal representative. Also attached is a copy of an email sent to Dr and Mr Warren on Thursday 11 March 2010 which outlines the intent of this paper.

Dr and Mr Warren request that the Committee take no action on this paper. However Council needs to have a decision to take back to the Environment Court by 26 March. If Council does not pass this resolution, this matter will go to the Environment Court.

At the time of the mediation in 2008, the requirement for an access agreement was suggested by Council as an attempt to bring some closure to the ongoing discussions. Obviously this has not been successful and the Environment Court is not willing to wait for negotiations to delay the resource consent process any further.

Officers will continue to work with affected landowners on access issues, including Erin Go Bragh Ltd. (**EGB**). This will be a continuing process with present and future landowners, particularly when the issues surrounding pipeline replacement need to be addressed (most likely in the years 2020 to 2023 inclusive).

In respect of EGB, officers are working to increase the level of detail on the access plan provided to the Warren's legal representative on 15 December 2009. It took until the meeting on 8 March 2010 for EGB to respond to requests for feedback on that plan. A draft access agreement was provided to EGB's legal representative and the Warrens on 2 June 2009 yet no suggestions for amendments or enhancement have been forthcoming.

The Environment Court is pressing for resolution of the appeal. EGB are not parties to the Environment Court appeal. Council's officers and EGB will continue working towards agreement over access issues but the timeframe for this need not constrain proceedings in the Environment Court. It is for this reason that the paper and its recommendations have been brought to the Strategy and Policy Committee.

Maria Archer

From: Kevin Robertson [Kevin.Robertson@capacity.net.nz]
Sent: Thursday, 11 March 2010 3:30 p.m.
To: Janet and Mike Warren
Subject: Western Wastewater Treatment Plant _ Environment Court Appeal

Dr Janet & Mr Mike Warren,

Thank you for meeting with representatives of Wellington City Council on Monday 8 March to discuss issues around access to your land. I write to advise you that the Strategy and Policy Committee (SPC) of Council will consider recommendations concerning the appeal to the Environment Court of the WWTP resource consents.

Resolution of the Council to replace the outfall pipeline is conditional

The Council resolved in August 2008 to replace the outfall pipeline by 2023 subject to reaching agreement on appropriate access, construction and reinstatement agreements with the affected landowners. Council's offer to establish access agreements sought the following outcomes. It sought to:-

- formalise understandings and the obligations of parties
- clearly set out landowner's and the Council's rights
- facilitate optimum communications between the landowners and the Council
- enable efficient delivery of current pipeline maintenance activities and
- provide for pipeline renewal activities in the years leading up to 2023.

These access agreements remain a work in progress and efforts continue to formalise access arrangements where there is a willingness and perceived mutual benefit to the parties. Nevertheless the October 2008 mediated agreement is in danger of falling over due to Council's stated preference for access agreements. On 18 March 2010 the SPC will consider recommendations from officers recommending that the Council:-
"Agrees to withdraw Council's requirement that replacement of the Western treatment plant's outfall pipeline is conditional on the Council obtaining suitable access agreements with affected landowners."

Officers of Council consider that existing access provisions under the Local Government Act 2002 (**LGA**), are sufficient to enable the Council to fully discharge its responsibilities and obligations. Access agreements are an instrument to enable affected landowners and the Council to understand each others rights, responsibilities and obligations encouraging an optimum working relationship. Such agreements are not essential to the Council's ongoing activities given the Council's powers under the LGA.

The outcome of the SPC meeting will be included in the Council's report to the Environment Court by 26 March 2010.

If you have any questions please contact me as below.
 Regards

Kevin Robertson

Special Projects

Capacity Infrastructure Services Limited

85 The Esplanade, Petone, Private Bag 39804, Wellington Mail Centre 5045

T: + 64 4 910 3807 **M:** 027 453 1704 **F:** + 64 4 910 3801 **E:** kevin.robertson@capacity.net.nz

 Disclaimer To the maximum extent permitted by law, Capacity Infrastructure Services Limited trading as Capacity, is not liable (including in respect of negligence) for viruses or other defects or for changes made to this email or to any

17/03/2010

