

BEFORE THE HAWKE'S BAY REGIONAL COUNCIL

UNDER The Resource Management Act 1991 (RMA)
IN THE MATTER of an application by **RAVENSDOWN LIMITED**
(Ravensdown) for new and replacement water and discharge permits for the operation of the Napier Works and the establishment of a habitat enhancement project.

**MINUTE OF CHAIR OF HEARINGS PANEL
REGARDING EXPERT CONFERENCING**

Dated 31 May 2022

1. On Friday afternoon I received a memorandum from counsel for the applicant (Ravensdown Limited) in this matter, requesting that the Commissioners make a direction regarding expert conferencing, as proposed to take place from 1 June (i.e., tomorrow).
2. Counsel's memorandum records that extensive further information requests have been made by the technical experts engaged by the Council to review the application pursuant to s 92 of the Act, and that a formal response had been filed.
3. Counsel further recorded that while there was a large degree of alignment between its experts and those engaged by the Council as to the nature of the effects of the proposed activities and how they are most appropriately managed, a number of issues remain where the experts are not "necessarily agreed", and where issues may be resolved or at least clarified and narrowed through expert conferencing.¹
4. Counsel submits that if expert conferencing occurs it is likely to significantly reduce the amount of technical material that would need to be traversed in evidence at the hearing, enhancing the efficiency of the process for the benefit of all participants.
5. Further that the discipline of formal expert conferencing would have a relative benefit over informal meetings to that purpose.
6. Finally, I was advised that arrangements had been made for the respective experts (Council and applicant) to meet together on 1 June 2022 on the topics of stormwater management, land disposal and aquatic ecology, with Mr Shade Smith (expert engaged by Ngāti Kahungunu Iwi Incorporated (a submitter)) also being available to meet on those topics on 1 June 2022.²
7. In these circumstances and having consulted with the other Commissioners appointed, the following directions are made:
 - (a) That the experts engaged by Ravensdown and the Council, together with any other relevant experts engaged by submitters

¹ Paragraphs 8 and 9 of counsel's memorandum.

² Counsel was not aware as to whether Dr Nick Jones who also made a submission on behalf of the Hawke's Bay DHB would be available to meet on that day.

that are available, are to meet for the purpose of expert conferencing. The purpose of the conferencing will be to:

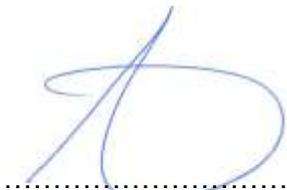
- (i) Identify the relevant technical matters that are agreed between the experts.
 - (ii) Identify the relevant technical matters that are not agreed, and why.
 - (iii) Identify the applicant's proposed conditions that are agreed and any amended or different conditions the experts agree that are more suitable.
 - (iv) Identify any conditions that are not agreed.
- (b) In progressing expert conferencing for this purpose regard should be had to Appendix 3 to the Environment Court Practice Note 2014, and it should be substantially complied with as to the duties of experts in particular.³
- (c) A joint signed witness statement addressing the above matters must be prepared at the conclusion of the expert conferencing, and filed with the Council (Manager- Consents).
8. For the avoidance of doubt, it is recorded that the first conference to proceed as directed above is to address the topics of stormwater management, land disposal and aquatic ecology.
9. I understand that further expert conferencing may take place later in June on the topics of air quality and related plant and health effects. This same direction applies to the proposed expert conferencing on those topics.
10. I should record that the Commissioners would have preferred more notice as to the proposal for expert conferencing, the range of topics to be canvassed, and so as to be able to better assess and comprehend the range of technical issues at stake in the circumstances presented, before being requested to make directions of this nature.
11. We request that, if any expert for any party (including submitters) who would have wished to participate in this expert conferencing could not do so given the proposed timing, this be drawn to our attention with further proposed directions to address any concerns raised in that

³ Section 7 of the Appendix, General Directions on Conferencing.

respect. I record that this may result in the need for future directions that expert conferencing on a given topic be repeated.

12. The Commissioners are also not minded to include the Ravensdown's Works Manager, Mr Torrens to be allowed to attend expert conferencing as an observer.⁴
13. We are of the view that expert conferencing should be just that, conferencing between experts qualified to give opinion evidence in resource management proceedings.⁵ No doubt Mr Torrens can give evidence regarding issues of implementation and practicality as to any conditions agreed by the experts pursuant to the directions made.

Dated: 31 May 2022



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Martin Williams

⁴ As proposed by counsel for Ravensdown, at paragraph 17 of the memorandum filed.

⁵ Refer paragraph 1 (c) of Appendix 3 to the Environment Court Practice Note.