

EXCLUSIVE ECONOMIC ZONE AND CONTINENTAL SHELF (ENVIRONMENTAL EFFECTS) ACT 2012 (the Act)

Coastal Resources Limited (CRL) application for marine dumping consent

M3 – Minute of the Decision-making Committee – 28 September 2018

Request for Changes to Timeframes in the Hearing Procedures and request for information from submitters with existing interests

1. On 19 September 2018 the Decision-making Committee (DMC) released the Hearing Procedures that are currently available on the EPA website. The Hearing Procedures set out the timeframes by which the CRL hearing will run.
2. On the same day the DMC received two memoranda from Coastal Resources Limited (CRL) requesting the DMC consider an extension to the timetable requirements, specifically the due date for filing applicant's evidence which is due by 12pm 1 October 2018.
3. CRL has requested that the date for filing its evidence be amended to 25 October 2018 to ensure all matters raised in submissions are addressed in evidence. It also requested the following consequential changes to other dates specified in the hearing procedures:
 - Submitter evidence proposed to be amended to 8 November 2018;
 - Expert Conferencing proposed to be amended to 15-29 November 2018; and
 - Hearing start date proposed to be amended to 3 December 2018.
4. The above request and information has been considered by the DMC in light of the statutory matters set out below.

Relevant considerations

5. The Act sets a 40 working day timeframe for the commencement of the hearing after the closing date for submissions on the application. In order to accommodate the proposed changes to the evidence exchange, this hearing date also needs to change which requires a decision to extend a statutory time period under section 159.
6. It is mandatory, in accordance with section 160 of the Act, for the DMC to take into account the interests of persons considered to be directly affected and the interests of the community in being able to achieve an adequate assessment of the potential effects of a proposal. In making this assessment, the purpose of the Act is relevant, and the purpose is achieved by taking into account the decision making criteria and applying the information principles set out in section 61.

We consider these matters are also relevant when considering any changes to our hearing procedures as a matter of natural justice.

7. We also note there is also a general obligation under section 40 to deal with the application as promptly as is reasonable in the circumstances.

Changes to the timeframes in the hearing procedures

8. Having considered all of these matters, the DMC accepts the Applicant's request for the filing of evidence and does not consider that this extension, and the consequential changes needed to the rest of the timeframes, gives rise to any prejudice on the part of other parties. Indeed the DMC consider this extension of time to be of value to all parties in giving careful consideration to the issues raised in submissions. However, the DMC considers that it is important to retain the hearing starting in the month of November.
9. Therefore, in accordance with section 159(1)(a) of the Act, the DMC extends the time period in which to commence the hearing of the CRL marine dumping consent application. The hearing will commence no later than Wednesday 28 November 2018 (commencement date to be confirmed by hearing notice). This amounts to an extension of 16 working days.
10. To ensure that all submitters have a fair and reasonable opportunity to prepare their evidence the DMC also agrees to the following changes to the timetable as set out in the Hearing Procedures:
 - Submitter Evidence due by 12pm 1 November 2018
 - Expert Conferencing 8-22 November 2018
11. An updated version of the hearing procedures is available on the EPA website.
12. If any parties wish to raise further matters in respect of the changes, please contact the EPA staff.

Effects on existing interests of the application

13. The DMC wishes to understand more about the effects of the activity proposed on existing interests. With the extension of time, the DMC considers this is an appropriate time to invite any submitters who have identified themselves as having an existing interest to provide information on the effects of the proposed activity on that existing interest.
14. This can either form part of the evidence a submitter may wish to provide if they are attending the hearing, or in writing to EPA staff by email CRL.Application@epa.govt.nz no later than 1 November 2018.

15. The DMC notes that any information provided will be made publicly available on the EPA website along with all other evidence received during the course of the proceedings.

For the DMC:

A handwritten signature in black ink, appearing to read "Mark Farnsworth". The signature is written in a cursive style with a large initial "M" and a long, sweeping tail.

Mark Farnsworth

DMC Chair

28 September 2018