

Julia Brown

From: Customer Services
Sent: Thursday, 15 July 2021 2:58 pm
To: Resource Consents
Subject: FW: ENV-2021-CHC-73: NZ Cherry Corp v CODC - Plan Change 14
Attachments: 4. Section 274 notice - R4RDC.pdf; 5. Application to extend time for s274 notice.pdf
Categories: Julia, Planning Admin

From: James Gardner-Hopkins <james@jghbarrister.com>
Sent: Thursday, 15 July 2021 2:54 pm
To: Christine McKee <christine.mckee@justice.govt.nz>
Cc: Sarah Eveleigh <sarah.eveleigh@al.nz>; Jessica Hardman <jessica.hardman@al.nz>; Jayne MacDonald <jmacdonald@mactodd.co.nz>; James Dicey <james@grapevision.co.nz>; Alex Bartrum <cromtbclub@gmail.com>; Rachel.McClung@hortnz.co.nz; Helen.Atkins@ahmlaw.nz; phil.page@gallowaycookallan.co.nz; Derek McLachlan <Derek.McLachlan@gallowaycookallan.co.nz>; Customer Services <csoalex@codc.govt.nz>
Subject: ENV-2021-CHC-73: NZ Cherry Corp v CODC - Plan Change 14

Dear Chrissie,

Please find **attached**, for filing and by way of service to the copied parties a s247 notice on behalf of R4RDC, together with an application to extend time.

The filing fees will be paid through the online Court portal.

Kind regards
James

JAMES GARDNER-HOPKINS | BARRISTER

BSC | LLB (hons) | MNZIOB

M 021 277 1425 AKL 09 889 2776 WGN 04 889 2776

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----- Forwarded message -----

From: **Sarah Eveleigh** <sarah.eveleigh@al.nz>
Date: Thu, 15 Jul 2021 at 11:46
Subject: ENV-2021-CHC-73: NZ Cherry Corp v CODC - Plan Change 14 - draft memorandum (Matter: 2201634)
To: Jayne MacDonald <jmacdonald@mactodd.co.nz>, James Dicey <james@grapevision.co.nz>, Alex Bartrum <cromtbclub@gmail.com>, Rachel.McClung@hortnz.co.nz <Rachel.McClung@hortnz.co.nz>, Helen.Atkins@ahmlaw.nz <Helen.Atkins@ahmlaw.nz>, phil.page@gallowaycookallan.co.nz <phil.page@gallowaycookallan.co.nz>, Derek McLachlan <Derek.McLachlan@gallowaycookallan.co.nz>

Dear parties,

The Court has directed that we confer with other parties and provide a memorandum setting out a list of issues, whether mediation is requested, and otherwise propose an evidence exchange timetable. We attach a draft memorandum addressing these matters for your consideration, together with a copy of the Court's directions for ease of reference.

We have provided a proposed list of issues within the memorandum. Please advise of any changes or additions sought.

The Applicant seeks that the matter is referred to Court-facilitated mediation in the first instance, as we consider this is likely to narrow the matters in contention. It will also provide an opportunity for a without prejudice discussion regarding new information and any amendments to the PC14 proposal. We suggest that two days be allowed for mediation. Could you please advise your position on the matter being referred to mediation, and whether you consider the estimate of two days is appropriate.

In anticipation that mediation may not resolve all issues, we consider it is also efficient to propose an evidence exchange timetable. We have included a proposed timetable and indicated evidence to be called for the Applicant in the attached draft memorandum. We have estimated hearing time required as five days. Could you please let us know your views on the proposed timetable and estimate of hearing time required, and provide an list of evidence to be called.

The memorandum is to be filed by tomorrow, 16 July, so we would be grateful for your early response. If you have any questions or would like to discuss, please give me a call.

Kind regards,

Sarah

Sarah Eveleigh

Partner

Anderson Lloyd

d +64 3 335 1217 m +64 27 204 1479 f +64 3 379 0039

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**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

ENV-2020-CHC-00073

**I TE KOTI TAIAO O AOTEAROA
OTAUTAHU ROHE**

UNDER THE

Resource Management Act 1991 ("**Act**")

IN THE MATTER OF

An appeal under Schedule 1, Clause 14(1), of the Act in relation to the Central Otago District Council's decision on Private Plan Change 14

BETWEEN

NEW ZEALAND CHERRY CORP (LEYSER) LP

Appellant

AND

CENTRAL OTAGO DISTRICT COUNCIL

Respondent

**APPLICATION FOR WAIVER UNDER SECTION 281 ON BEHALF OF
RESIDENTS FOR RESPONSIBLE DEVELOPMENT CROMWELL
IN RESPECT OF TIMING FOR SECTION 274 NOTICE**

15 JULY 2021

Counsel instructed:

JGH BARRISTER

J D K Gardner-Hopkins

Phone: 04 889 2776

james@jghbarrister.com

PO Box 25-160

WELLINGTON

TO: The Registrar
Environment Court
By email: Christine.McKee@justice.govt.nz

AND TO: The Appellant
By email: sarah.eveleigh@al.nz
By email: jessica.hardman@al.nz

AND TO: The Respondent
By email: info@codc.govt.nz

TAKE NOTICE THAT the Residents for Responsible Development Cromwell (“R4RDC”) hereby apply under section 281 of the Act for a waiver in respect of *New Zealand Cherry Corp (Leyser) LP v Central Otago District Council* (ENV-2020-CHC-73) (“**proceedings**”).

R4RDC wishes to become a party to the proceedings under section 274 of the Act and seeks a waiver of the time period provided in section 274(2) to join the proceedings, **UPON THE GROUNDS THAT:**

1. R4RDC was an original submitter, and also, as a representative entity for the people of Cromwell, has an interest in the proceedings that is greater than the interest that the general public has.
2. The s274 notice period closed on 9 July 2021, and so the filing of R4RDC’s s274 notice and this application to extend the timeframe for filing it is only four working days “late”.
3. There can be no prejudice arising from the delay (as opposed to the filing of the s274 notice in and of itself) to any party given the short timeframe involved, and that no substantive steps have been taken in the proceedings. It is understood that the Appellant has only today taken steps to confer with the existing parties as to the filing of a memorandum with the Court on procedural matters (due tomorrow). R4RDC is able to, and will, provide its feedback on that memorandum later today.
4. Finally, the reason for the delay is an administrative error, which it is respectfully submitted, should not prejudice R4RDC’s ability to participate, that error having been discovered and rectified swiftly. Put another way, R4RDC has not unduly delayed on discovery of the error in seeking to join the proceedings.

DATED 15 July 2021



J D K Gardner-Hopkins
Counsel for R4RDC

R4RDC's address for service is c/- James Gardner-Hopkins, Barrister, PO Box 25-160, Wellington.

Documents for service on R4RDC should however be emailed to james@jghbarrister.com. Where formal service of any document is required, service should only be considered complete and/or effective when receipt of that email is acknowledged.