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## DIRECTIONS OF THE COMMISSIONERS

### MINUTE 1

#### INTRODUCTION

- [1] Pursuant to section 34(A)(1) of the Resource Management Act 1991 (RMA), the Whanganui District Council (Council) have delegated to independent commissioners Miria Pomare and Rob van Voorthuysen the function of jointly hearing the submissions on Plan Change 53 – Springvale Structure Plan and its associated Notice of Requirement (NOR) – Springvale Stormwater Network and Roads, and to make recommendations<sup>1</sup> on those submissions to the Council.
- [2] The following directions and requests relate to the hearing.

#### HEARINGS ADMINISTRATOR

- [3] The Council has appointed a Hearings Administrator who is:

Leayne Huirua

[Leayne.Huirua@whanganui.govt.nz](mailto:Leayne.Huirua@whanganui.govt.nz)

Phone: 06 349 3116

#### HEARING DATES AND TIMES

- [4] The hearing will be held at the Council's office at 101 Guyton Street in Whanganui.
- [5] The hearing date is:
- Tuesday 17 December 2019
- [6] The hearing will commence at 9am.
- [7] Breaks during the day will be as follows:
- Morning tea            10.30 to 10.45am
  - Lunch                    12.30 to 1.30pm
  - Afternoon tea          3.00 to 3.15pm
- [8] The Hearings Administrator will be contacting submitters who stated in their submission that they wished to be heard to confirm their attendance at the hearing and to determine an allocation of speaking time. Thereafter, a schedule of appearances will be developed and distributed to submitters. That hearing schedule may be subject to change as the hearing proceeds and any changes will be posted on the Whanganui District Council website.
- [9] The general order of appearance at the hearing will be:
- Procedural matters (if any)
  - The Council as proposer of the Plan Change and as Requiring Authority for the Notice of Requirement (NOR)
  - Submitters
  - Section 42A report authors
  - The Council's right of reply (which may be given at the hearing or in writing thereafter)

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<sup>1</sup> The Whanganui District Council make the final decisions on any amendments to the Plan Change and Notice of Requirement in light of the Commissioners' recommendations.

[10] Submitters wishing to be heard (and who are not calling witnesses to support their case) will generally each be allocated up to **30 minutes** to speak to their submissions or further submissions, unless a longer time slot is specifically requested.

[11] Submitters raising the same or similar matters of concern are encouraged to group together and make joint presentations at the hearing.

### EXPERT WITNESSES

[12] Pursuant to section 41(4) of the RMA, all participants (the Council as proposer of the Plan Changes and NOR, the section 42A report authors and submitters) are requested to advise the Hearings Administrator of the names of any experts that they intend calling and those expert's respective areas of expertise on or before **Friday 1 November 2019**.

### PRE-CIRCULATION OF MATERIAL

[13] Section 42A reports<sup>2</sup> will be made available on or before **Friday 15 November 2019** and shortly thereafter posted on the Whanganui District Council website, allowing submitters to have regard to their contents when preparing their evidence. It would be extremely helpful to the Commissioners if the Council as proposer of the Plan Change and NOR and submitters could indicate in their evidence whether or not they agree or disagree (with reasons) with the section 42A report authors' conclusions and recommendations.

[14] Pursuant to section 41B(2) of the RMA, the Council as proposer of the Plan Change and NOR are to provide any briefs of expert evidence to the Hearings Administrator no later than 4.00pm on **Friday 22 November 2019**.

[15] If expert witnesses for the Council intend to base their briefs of evidence on technical reports that they authored and which have already been made available to the Commissioners and submitters, then the expert witnesses need not repeat material contained in those reports in their evidence. It will be sufficient for the evidence to cross-refer to that material.

[16] Pursuant to section 41B(3) of the RMA, submitters who intend to call expert evidence<sup>3</sup> in support of their submissions are directed to provide written briefs of that evidence to the Hearings Administrator no later than 4.00pm on **Friday 29 November 2019**.

[17] If Submitters intend to provide written evidence themselves, or have non-expert people appear on their behalf, then they are requested and strongly urged to also provide a written statement of that evidence to the Hearings Administrator no later than 4.00pm on **Friday 29 November 2019**.

[18] If expert witnesses for the Council prepare rebuttal evidence in response to expert evidence lodged by submitters, then the Council is directed to provide those briefs of expert evidence to the Hearings Administrator no later than 4.00pm on **Friday 6 December 2019**. The Commissioners anticipate that any rebuttal evidence will be concise and not raise new issues.

[19] All expert witnesses presenting briefs of evidence are to include a summary statement that is no more than two A4 pages long at the beginning of their evidence.

[20] If the Council intends to have legal counsel present opening legal submissions, the Council is requested to provide those submissions to the Hearings Administrator no later than 4.00pm on **Wednesday 11 December 2019**.

[21] All original submissions and pre-circulated written evidence will be taken as read at the hearing. Accordingly, pursuant to section 41C(1)(b) of the RMA, the Council and submitters are directed that they and their experts

<sup>2</sup> The s42A Report includes a discussion of the submissions and further submissions. It recommends (with reasons) whether any changes should be made to the notified Plan Change and NOR in response to the submissions and further submissions. Those recommendations do not bind the Commissioners.

<sup>3</sup> Expert evidence is that written by qualified planners, engineers or scientists, for example, prepared in accordance with the Environment Court's Practice Note 2014 for expert witnesses.

will not be required to read any such material aloud at the hearing. Reading that material aloud at the hearing would be an inefficient use of time as the Commissioners will have already read it.

[22] However, experts will be asked to read out their summary statements and submitters will similarly be asked to highlight key points for the benefit of the Commissioners. The Commissioners will then ask any questions they may have.

[23] Should any submitter wish to speak in Te Reo, utilise Sign Language, or utilise visual aids (PowerPoint, etc) they are requested to liaise directly with the Hearings Administrator, as soon as possible, but prior to **Friday 1 November 2019** regarding their needs.

## RECORDING

[24] The hearing will be recorded but the recording will not be transcribed.

## PRE-HEARING MEETINGS

[25] If participants (the Council, the s42A report authors, or submitters) wish to hold pre-hearing meetings<sup>4</sup> then resultant pre-hearing reports are to be prepared and provided to the Hearings Administrator by 4.00pm on **Friday 22 November 2019**. The Hearings Administrator can assist with organising pre-hearing meetings.

## EXPERT CONFERENCING / CAUCUSING

[26] Either prior to or following the exchange of expert evidence as detailed above, the Commissioners request that all participants calling expert witnesses liaise amongst themselves, along with the Hearings Administrator, in order to facilitate their respective experts conferencing on matters relevant to their specific areas of expertise (including any applicable amendments to the notified Plan Change or NOR).

[27] If expert conferencing occurs then a Joint Witness Statement (JWS) is to be prepared for each specific topic of expertise and be provided to the Hearings Administrator by 4.00pm on **Friday 22 November 2019**. The Commissioners anticipate that experts for the Council will assume responsibility for preparing each JWS, unless the conferencing experts decide otherwise amongst themselves. The Commissioners may request further conferencing during the course of the hearing.

[28] All expert witnesses, in both preparing and presenting their evidence as well as when attending expert conferencing, are expected to comply with the Environment Court Consolidated Practice Note 2014 – Expert Witness Code of Conduct available at the following website

<http://www.justice.govt.nz/courts/environment-court/legislation-and-resources/practice-notes/expert-witness.html>.

## SITE VISIT

[29] The Commissioners intend to undertake a preliminary site visit prior to the hearing commencing. Participants are requested to inform the Hearings Administrator by 4.00pm on **Friday 1 November 2019** of any areas of interest, along with supporting reasons, that they would wish the Commissioners to include within their site visit. A further site visit may be undertaken before the hearing is closed.

## CORRESPONDENCE

[30] Participants must not attempt to correspond with or contact the Commissioners directly. All correspondence relating to the hearing must be addressed to the Hearings Administrator.

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<sup>4</sup> The Council may invite some or all of the submitters to attend a meeting, the purpose of which is usually to clarify submitter issues and see if those issues can be resolved.

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## SERVICE OF DOCUMENTS

[31] All written material (evidence, pre-hearing reports, JWS's and legal submissions) addressed by this Minute must be lodged with the Hearings Administrator by either:

- Preferably email to Leayne Huirua at [Leayne.Huirua@whanganui.govt.nz](mailto:Leayne.Huirua@whanganui.govt.nz) or
- Post addressed to Leayne Huirua, Whanganui District Council, PO Box 637, Whanganui 4540; or
- Hand delivery to Leayne Huirua, Whanganui District Council, 101 Guyton Street, Whanganui.

[32] All written material received will be made available as soon as reasonably possible to participants from the Whanganui District Council website at the following link:

<https://www.whanganui.govt.nz/our-services/planning-services/district-plan-changes/current-plan-changes/springvale-structure-plan/Pages/default.aspx>

## DEVIATION REQUESTS

[33] If any participant wishes to deviate from any timetable or other requirement identified in this Minute a written request to do so (inclusive of reasons) must be addressed to the Commissioners, and be provided to the Hearings Administrator. The Commissioners will consider and determine any such requests.



Rob van Voorthuysen

**Independent Commissioner – Chair - on Behalf of the Commissioners**

Dated: 2 September 2019