

# **Directions/Minutes of Commissioners #1 Proposed Plan Change 39 – Hutt City Council Review of Transportation Provisions**

Pursuant to section 34A of the Resource Management Act 1991 (RMA), Mr R Schofield (Chair), an Independent Commissioner, Councillor L Bridson and Councillor T Lewis have been appointed by the Hutt City Council (HCC) to hear and make decisions on Proposed District Plan Change 39 – Transport to the City of Lower Hutt District Plan.

A hearing has been set down for Thursday 28 September 2017, with Friday 29 September 2017 being reserved if required.

The Commissioners have considered whether any orders are appropriate under sections 41B and 41C of the RMA. Section 41B provides that an authority controlling a hearing may direct that briefs of expert evidence be provided to the authority prior to the hearing. Section 41C provides that the authority controlling a hearing may make certain directions on the production of evidence, submissions and further information. The evidence and submissions will be responding to the assessment and recommendations to be contained in the report produced by the Council reporting officer, under section 42A.

It is apparent that there are a number of issues which are likely to be addressed by experts. An expert is a person who holds professional qualifications in the field relevant to the evidence produced. The purpose of the pre-circulation of expert evidence is to allow the evidence to be read and assimilated by all parties to the hearing.

Accordingly:

## **Exchange of Reports and Expert Evidence**

1. The Commissioners request that any submitter who is intending to produce expert evidence in support of their submissions inform the Hearing Administrator, Ms Karen Piper, at the HCC ([Karen.Piper@huttcity.govt.nz](mailto:Karen.Piper@huttcity.govt.nz)) as to what expert evidence they proposed to provide to the Hearing no later than 5pm on Friday 11 August 2017.
2. Pursuant to section 42A(3)(a) of the RMA, the Commissioners direct that the HCC section 42A report/s be provided to the parties, by way of email directing the parties to the HCC website, no later than 5pm on Wednesday 6 September 2017.
3. Pursuant to section 41B(3) and (4) of the RMA, the Commissioners direct that if any person who has made a submission intends to present expert evidence at the hearing, including expert planning evidence, then that party is to provide a written brief of that evidence to the Hearing Administrator, Ms Karen Piper, at the HCC ([Karen.Piper@huttcity.govt.nz](mailto:Karen.Piper@huttcity.govt.nz)) no later than 5pm on Tuesday 19 September 2017.
4. The Commissioners request that as soon as practicable following receipt of any such evidence received pursuant to Direction 2, HCC makes the evidence available on the HCC website and notifies all other parties of the availability by way of email, no later than 5pm on 20 September 2017.

5. The Commissioners request that all submitters provide the Hearing Administrator, Ms Karen Piper, at the HCC ([Karen.Piper@huttcity.govt.nz](mailto:Karen.Piper@huttcity.govt.nz)) with an indicative list of names of those persons who will be presenting statements or expert evidence, including themselves and those who may be presenting non-expert evidence or legal submissions, and the estimated time required, no later than 5pm on Tuesday 19 September 2017. This instruction applies even if a submitter is representing him/herself without any additional representation. This will assist in scheduling the proceedings – both in terms of indicating the likely duration of the hearing, and in terms of understanding roughly how long each party will require.
6. In terms of Directions 1 and 2, the reports and evidence should be made available for downloading from the HCC website <http://www.huttcity.govt.nz/Your-Council/Plans-publications-and-bylaws/District-Plan/District-Plan-changes/district-plan-change-39/>. Hard copies of the reports or evidence should only be provided on request.
7. Pursuant to s41C(1) of the RMA, the Commissioners direct that, in respect of expert evidence pre-circulated in accordance with these Directions, the hearing will be conducted in the following manner:
  - The section 42A report(s) will be taken as read; however, the reporting officer will be asked whether there are any changes arising from any pre-hearing conferencing or discussions with the parties (any conferencing report or joint witness statements that have not been previously circulated shall be produced at this point – refer to paragraphs 11 to 13 below);
  - The submitters that have provided the pre-circulated expert evidence are to call the witness in person;
  - The witness should be introduced and asked to confirm his or her qualifications and experience;
  - The witness should be asked to confirm the matters of fact and opinion contained in the brief of evidence;
  - The witness will then be given an opportunity to draw to the attention of the Commissioners the key points in the brief (for example, by way of a summary statement). No new evidence shall be introduced, unless it is specifically in response to matters raised in other pre-circulated briefs of evidence supplied by another party – in such cases, the new evidence shall be presented in written form as an Addendum to the primary brief of evidence and it may be verbally presented by the witness. If there is any variation between what the witness says and what is in the brief of evidence, the Commissioners will assume that the written brief is the evidence unless the content of the brief is specifically amended by the witness; and
  - The witness may then be questioned by the Commissioners.
8. Non-expert evidence, including any lay evidence or legal submissions, should be tabled and read aloud on the day that the relevant party appears at the hearing. While all submitters will be provided with a reasonable opportunity to be heard, in the interests of good time-keeping and the avoidance of repetition, we would appreciate it if all submitters could provide concise

statements and, if others have made a similar submission, consider presenting a joint case with them at the hearing.

9. For any party who may not wish to attend the hearing, the Commissioners would appreciate if those parties could advise the Council (through the Hearing Administrator) as to their position as to any recommendations that may come through in the section 42A report. Again this would assist the Commissioners in both the hearing and their deliberations.
10. For clarity, the timetable for proceedings is as follows:

| Date (2017)           | Action  |
|-----------------------|---|
| Friday 11 August      | <b>Submitters</b> – to provide to the Hearing Administrator a list of experts they intend to call in support of their submission(s).  |
| Wednesday 6 September | <b>HCC – s42A</b> report to be circulated to all parties  |
| Tuesday 19 September  | <b>Submitter's expert evidence</b> – to lodge with the Hearing Administrator all written evidence in support of the application<br><b>Submitters attending the hearing</b> – to provide to the Hearing Administrator a list of authors/ witnesses (including the submitters themselves) to be called in support of their submission(s) and their anticipated time requirements (plus any sites and localities that they wish us to visit prior to the hearing). |
| Thursday 28 September | <b>Hearing Commences</b>  |
| Friday 29 September   | <b>Reserve Day</b> for Hearing if needed  |

### Conferencing

11. We do not propose to formally direct the undertaking of, or participation in, formal prehearing meetings, discussions or expert conferencing. However, as a first principle, we encourage the Council and submitters in an endeavour to explore whether a mutually agreeable conclusion is possible on any of the matters raised in submissions prior to the hearing commencing. If any parties are able to constructively discuss matters with a view of facilitating a smooth hearing process, we would welcome this.
12. To be clear, the reasons for conferencing would be:
  - a. To clarify any aspects of the plan change that are unclear;
  - b. To clearly identify the areas of agreement and disagreement between the parties; and
  - c. To enable a more focused and concise hearing process on technical matters
13. The output of any conferencing process shall be the production of a report and/or joint witness statements to be circulated to all interested parties prior to the commencement of the hearing. It would be prudent for the Council to organise this on behalf of all parties (including the Council). Any report or joint witness statement shall be provided to the Hearing Administrator, put on the Council website, and all parties notified of its availability, as soon

practicable after its preparation. This does not preclude conferencing continuing right up to, and during, the hearing should that be appropriate.

#### **Site Visit**

14. At this stage, given our familiarity with the City, the Commissioners do not consider that a visit to any particular part of the City's transportation network is necessary. However, if submitters consider that a visit to a specific vicinity or transport route would assist us in our deliberations, please advise the Hearing Administrator, Ms K Piper. We would suggest that this advice could be provided at the same time that they respond to the Council regarding the list of evidence authors/ witnesses to be called in support of their submission(s) (i.e. by 19 September 2017).

#### **Correspondence**

15. Any correspondence with the Commissioners should be directed to the Hearing Administrator, Ms K Piper at HCC in the first instance.

A handwritten signature in black ink, appearing to read 'Robert Schofield', written in a cursive style.

**Robert Schofield (Chair)**

On behalf of the Hearing Panel

28 July 2017