

IN THE MATTER

of the Resource Management Act 1991 (**RMA**)

AND

IN THE MATTER OF

Plan Change 34 to the Auckland Unitary Plan

MINUTE FROM THE HEARING PANEL – LATE EXPERT EVIDENCE

1. Pursuant to section 34A of the RMA, Auckland Council (***the Council***) has appointed independent hearing commissioners (as the Hearing Panel) consisting of **Mr Greg Hill** (Chairperson), **Ms Cherie Lane**, and **Mr Richard Knott** to hear and determine submissions to Plan Change 34 to the Auckland Unitary Plan.
2. Plan Change 34 seeks to: Amend Schedule 15 to add a special character statement for the existing Howick Business special character area. It also seeks to amend the GIS viewer / planning maps to add four new sites to this special character area.
3. The hearing has been set down for the **27 May 2020**.
4. The Hearing Panel issued a Direction under section 41B of the RMA¹ directing that evidence from any expert be provided by the **13 May 2020**, with that evidence posted on Council's website as soon as possible after receipt but in any event, no later than 5pm, **14 May 2020**.
5. The Direction also set out that the Council may, in response to expert evidence provided by submitters, provide an updated set of plan provisions (track changes) as an addendum to the Section 42A report by **midday** on the **20 May 2020**, with any supporting commentary or rebuttal evidence as needed.
6. The purpose of those Directions was to provide the opportunity for the Commissioners and for the parties to read and consider any expert evidence or statements in advance of the hearing to assist all parties in understanding that evidence.
7. Expert planning evidence from Mr Brian Putt (on behalf of Ms Janet Dickson and others) has been received by the Council on the **22 May 2020**. Accordingly this expert evidence is late. If we are to accept that evidence, a waiver of the time period in which it can be lodged, is required.
8. Section 37 of the RMA enables time frames to be extended: That section states:

37 Power of waiver and extension of time limits

(1) A consent authority or local authority may, in any particular case,—

¹ 17 April 2020

- (a) extend a time period specified in this Act or in regulations, whether or not the time period has expired; or
 - (b) waive a failure to comply with a requirement under this Act, regulations, or a plan for the time or method of service of documents.
9. Section 37A set out the requirements for waivers and extensions. It states:

37A Requirements for waivers and extensions

- (1) *A consent authority or local authority must not extend a time limit or waive compliance with a time limit, a method of service, or the service of a document in accordance with section 37 unless it has taken into account—*
 - (a) *the interests of any person who, in its opinion, may be directly affected by the extension or waiver; and*
 - (b) *the interests of the community in achieving adequate assessment of the effects of a proposal, policy statement, or plan; and*
 - (c) *its duty under section 21 to avoid unreasonable delay.*
10. Mr Putt, when lodging his expert evidence, provided the following email. We have accepted that email as a waiver request for the evidence to be accepted:

I apologise for my expert evidence in support of Janet Dickson and others submissions being late. It has been extremely difficult to help the local residents who seek to be involved in PC34 organise their presentation for the hearing next week. The lockdown made meetings impossible and we had to resort to Zoom meetings which have their limitations for people not experienced with that technology.

However, I am pleased to say that the local submitters are now organised and prepared.

In addition, important new information came to light in the last few days which I was asked to comment on as to its relevance to the hearing. As it turns out it did not change the basic arrangements that the submitters seek in expanding the Special Character Area over the residential block which sits between Howick Village and Stockade Hill.

Through a misunderstanding that the hearing was to be vacated in favour of a new date to be set in two months time, I have made other arrangements which take me out of town at the time of the hearing next Wednesday and Thursday.

11. Given the extent to which this evidence is late (being 7 working days after the requested date for expert evidence and only 2 working days before the hearing is to be held), the Hearing Panel wishes to hear from any party who support or oppose the acceptance of this evidence as being late, prior to us making a determination on it. Written submissions may be provided to the Council's Hearing Advisor (see below) prior to the hearing, or at the beginning of the Hearing on the 27 May 2020.
12. Any enquiries regarding this Minute should be directed to Mr Bevan Donovan, Hearings Advisor by email at bevan.donovan@aucklandcouncil.govt.nz

Greg Hill

Greg Hill Chairperson
24 May 2020