

IN THE MATTER of the Resource Management Act 1991 (**RMA**)

AND

IN THE MATTER of a **Notice of Requirement** and **resource consents** for Eastern Busway Stage 2 (EB2 NoR), (EB2 RC) and (EB3R).

HEARING DIRECTION #4 FROM THE HEARING PANEL

1. Pursuant to sections 34 and 34A of the RMA, Auckland Council (the Council) has appointed a Hearing Panel consisting of three independent hearing commissioners - Sarah Shaw (chair), Ian Munro, Nigel Mark-Brown. The Hearing Panel's function is to hear the resource consent applications and submissions and make a recommendation on the Notice of Requirement. It is also to deal with any procedural matters.
2. The hearing commenced on 15 May 2023, adjourned on 18 May 2023 and was closed on 10 July 2023.
3. On 12 July 2023 the panel received a letter from Russell Bartlett KC (see attached) on behalf of The Warehouse Limited. Mr Bartlett advised that following the hearing of evidence there have been ongoing discussions between the respective experts, and that with respect to acoustics there are outstanding issues as between the experts for The Warehouse and for the Applicant, expected to be resolved by 13 July. Mr Bartlett sought to submit to the Panel additional acoustic information, along with comments from the parties as to its possible significance in relation to draft conditions as circulated.
4. The Panel has considered the request. While it is unfortunate that neither the Applicant nor The Warehouse alerted the Panel to this issue prior to the hearing being closed, we have come to the view that the hearing should be re-opened to receive updated information with respect to acoustic effects on The Warehouse and conditions to avoid, remedy or mitigate those effects. The following factors have influenced our decision:
 - Acoustic effects on The Warehouse, and conditions to avoid, remedy or mitigate those effects, is one of the principle matters in contention; and
 - While the hearing has been closed and it is rare that a closed hearing will be re-opened, given the resources already committed to the hearing by all parties it is most efficient to seek this updated information before making our decision (on the resource consents) and recommendation (on the Notice of Requirement).
5. Any updated information from any submitter or council reporting team with respect to acoustic effects on The Warehouse, and conditions to avoid, remedy or mitigate those effects, must be provided to the Council via the Hearings Advisor by the close of business on **Friday 21 July 2023**. This opportunity is available to all parties, but strictly limited to this issue.

6. The applicant shall provide any final closing comments in relation to the responses received to acoustic effects on The Warehouse to the Council via the Hearings Advisor by the close of business on **Wednesday 26 July 2023**.
7. Any enquiries regarding these Directions or related matters should be directed to the Council's Senior Hearings Advisor, Patrice Baillargeon by email at patrice.baillargeon@aucklandcouncil.govt.nz.



Sarah Shaw
Chairperson
17 July 2023

12 July 2023

Patrice Baillargeon
Senior Hearings Advisor
Democracy and Engagement Department
Auckland Council
Email: patrice.baillargeon@aucklandcouncil.govt.nz

Eastern Busway

Following the hearing of evidence, there have been ongoing discussions between the respective experts with particular reference to acoustic and traffic conditions.

As noted in my email sent on Monday there are still outstanding issues that Mr Hegley and Shivam Jakhu are attempting to resolve.

Attached is a summary of the outstanding points referred to by Mr Hegley. Also **attached** is a copy of a letter from Mr Loutit confirming that the answers are expected to be available by the close of business tomorrow.

In the circumstances leave is sought to adduce to the Panel the additional information from Auckland Transport, along with comments from the parties as to its possible significance in relation to draft conditions as circulated.

Would you kindly refer this to the Chair and advise.

Yours faithfully



Russell Bartlett KC

encls

Russell Bartlett

Subject: Outstanding Acoustic Issues

Date: Tuesday, 11 July 2023 at 4:23:14 PM New Zealand Standard Time

From: Rhys Hegley [REDACTED]

To: Russell Bartlett [REDACTED], Vaughan Smith

[REDACTED] Fiona Shilton [REDACTED]

Hi Russell

My first email of noise queries to WBA was emailed to Shivam on 29 May 2023. This has gone unanswered and the questions were repeated in my letter of 28 June.

I emailed future questions on 6 June.

Shivam responded to these on the 28th. I had further questions which I put in the letter to Shivam which I understand will be answered this Thursday.

My outstanding questions relate to:

1. Whether it will be practicable to provide the screening assumed in the analysis and which is necessary to ensure that noise from the general construction activities comply with the internal noise limit currently being discussed for The Warehouse. This relates to the ability to comply with the suggested conditions;
2. A clearer explanation of why the duration of the elevated piling noise levels does not change from the three piles discussed during the hearing when there are five piles adjacent to The Warehouse. This relates to the understanding of effects, as explained at the hearing.
3. Whether it would be practicable to pile until 8pm at night and reduce the number of days of piling. This relates to The Warehouse understanding effects.
4. Whether piling could be managed so that it occurred:
 - a. on the less busy Mon and Tue and not Fri – Sun.
 - b. Outside of Labour to Anniversary Day
 - c. whether piles could be completed consecutively rather than with prolonged periods inbetween.
5. Given the large amount of space a piling rig takes (including its swing radius to deposit spoil), was there confidence that the trucks could pass it to gain access to the unloading bay.

Regards

Rhys

Regards,

Rhys Hegley



[REDACTED]

Russell Bartlett

Subject: RE: Busway

Date: Tuesday, 11 July 2023 at 11:33:28 AM New Zealand Standard Time

From: Bill Loutit [REDACTED]

To: Russell Bartlett [REDACTED]

Close of business Thursday at the latest I am told.

-----Original Message-----

From: Russell Bartlett [REDACTED]

Sent: Monday, 10 July 2023 7:01 pm

To: Bill Loutit [REDACTED]

Subject: Busway

On Thursday Shivam wrote to Rhys Hegley seeking a response to earlier correspondence.

On Friday Rhys responded.

Presumably the AT response is under way.

Today the Chair has closed the hearing.

May we still have the AT response.

Regards,

Russell Bartlett KC

Shortland Chambers

PO Box 4338, Auckland 1140

DDI: [REDACTED]

Email: [REDACTED]

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