

**IN THE MATTER**

of the Resource Management Act 1991

**AND**

**PRIVATE PLAN CHANGE 23** Smales Farm, Takapuna

**DIRECTIONS OF THE HEARING PANEL OF COMMISSIONERS: PRIVATE PLAN CHANGE 23**

1. The Auckland Council (the Council) has appointed Independent Hearing Commissioners Ian Munro (Chair), and Justine Bray pursuant to section 34A of the Resource Management Act 1991 (RMA), to hear and determine submissions to Private Plan Change 23.
2. The hearing is scheduled to commence on **Tuesday 10 December 2019**.
4. The Commissioners have considered whether any directions are appropriate under section 41B and section 42A of the RMA. Section 41B provides that the Council may direct that evidence from any expert called by submitters be provided to the Council before the hearing. Section 42A RMA provides that the Council may require a report on the matters to be considered be provided prior to the hearing.
5. The Commissioners are aware that a section 42A report is currently being prepared by the Council.
6. Accordingly, the Commissioners direct as follows:
  - (a) Pursuant to section 42A RMA, that the Council's section 42A report and any attachments thereto be made available on the Council's web site by **5pm Tuesday 29 October 2019**.
  - (b) Pursuant to section 41B(1) and (2) RMA, that the Plan Change Requester is to provide all expert evidence to the Council by **5pm Wednesday 13 November 2019**.
  - (c) Pursuant to section 41B(3) and (4) RMA, that if any person who has made a submission intends to call expert evidence at the hearing (generally being evidence given by a professional with specialist qualifications and experience) then that party is to provide that evidence to the Council by **5pm Thursday 21 November 2019**.
  - (d) Section 41B RMA does not expressly provide for the provision of rebuttal evidence, however using our powers under s41B(1) RMA, we have elected to provide an opportunity to the Requester to file rebuttal expert evidence (if any) by providing it to the Council no later than **5pm Friday 29 November 2019**. With reference to s.41B(2) RMA, under s.37(1)(b) and s.37A we waive the requirement for evidence from an applicant to be provided no less than 10 working days prior to the hearing. This requirement applies properly to the first-instance filing of evidence addressed

in 6(b) above; the provision of rebuttal evidence is to help focus the issues of disagreement between experts and a reduced time period for this will not prejudice or disadvantage any party to the proceedings. The opportunity for rebuttal evidence is likely to assist a fuller and more comprehensive assessment of the application and the submissions. This specific commentary also serves as notice under s.37A(6) that this waiver has been granted.

- (e) All evidence is to be in either PDF or WORD electronic document format.
  - (f) As soon as possible after receipt of any such evidence received pursuant to the above Directions, that the Council places the evidence on Council's website.
7. Pursuant to section 41C(1) RMA, that in respect of evidence pre-circulated in accordance with these Directions, the hearing will be conducted in the following manner:
- (a) The party that has provided the pre-circulated evidence is to call the witness in person;
  - (b) The witness will then be asked to draw to the attention of the Commissioners the key points in the evidence. In this respect the expectation of the Commissioners is that the witness will be able to speak to the evidence or a written summary. The Commissioners may require certain evidence to be read where it is considered important to the proceedings; and
  - (c) The witness may then be questioned by the Commissioners.
8. The purpose of these Directions from the Commissioners is to provide the opportunity for the parties to consider any technical evidence in advance of the hearing and to assist all parties in understanding that evidence.
9. The Directions do not apply to evidence to be presented by submitters who are "non-experts", or persons who do not provide expert evidence at these types of proceedings. They will have the opportunity to present written or oral evidence at the hearing in the normal manner. They do not need to pre-circulate their own statements or representations before the hearing commences.

Any enquiries regarding these Directions or related matters should also be directed to Larissa Rew, Hearings Advisor – [larissa.rew@aucklandcouncil.govt.nz](mailto:larissa.rew@aucklandcouncil.govt.nz).



Ian Munro  
for the Hearing Commissioners  
Friday 30 August 2019