

## **UPPER HUTT CITY COUNCIL**

### **PROPOSED PLAN CHANGE 42: MANGAROA AND PINE HAVEN FLOOD HAZARD EXTENTS**

#### **MINUTE 1 OF HEARING COMMISSIONER**

##### **Introduction**

1. I have been appointed by the Upper Hutt City Council (“UHCC” or “the Council”) as Commissioner to hear and recommend on Proposed Plan Change 42 (“PC42”) to the Upper Hutt District Plan by Upper Hutt District Council (“the Council”), including the submissions lodged on PC42.<sup>1</sup> This minute sets out some preliminary matters in preparation for the hearing, which is set down for late September 2017. In particular, my objective is to provide for a smooth and easily navigable hearing process for all parties. This requires some action from the parties in readiness for the formal proceedings, which I will now outline in detail.
2. This minute covers the following matters:
  - (a) Hearing Date
  - (b) Pre-hearing discussions
  - (c) Evidence Preparation and Circulation
  - (d) Hearing Process and Presentations
  - (e) Site and Locality Visits
  - (f) Contact details
3. It is possible that there will be further instructions issued by way of Commissioner Minutes before and after the hearing.

##### **Hearing Date**

4. I am advised by the Council that the hearing is expected to be held on 27 and 28 September 2017 with 29 September 2017 being set aside as a reserve day. I am also advised that the Council will contact all submitters who indicated they wished to be heard with confirmation of the exact hearing dates. Submitters will be invited to book a timeslot if attendance at the hearing was (and still is) sought.

##### **Pre-hearing discussions**

5. Without wanting to prejudge the issues prior to the hearing, it is apparent to me from a preliminary review of submissions that there are a number of matters which will be addressed during the hearing, with the three most common being:
  - Extent of the flooding hazard;
  - Clarity of the mapping; and,
  - The underlying evidence base.
6. I am not formally directing the undertaking of, or participation in, formal pre-hearing meetings, discussions or expert conferencing. I have, however, been advised that some

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<sup>1</sup> My powers are to issue a recommendation to the Council which can, in turn, decide to accept or not.

meetings/discussions have already been undertaken on a voluntary basis between Council and some submitters (i.e. GWRC, PowerCo and Transpower).

7. I encourage such prehearing liaison and extend that encouragement to any other parties prior to the commencement of the hearing. This includes general liaison amongst the parties:
  - to discuss any procedural or substantive matters;
  - for submitters to gain a better understanding of what the proposal entails and what the effects and implications may be; and
  - for the Council to better understand what the submitter's concerns are and how they might be accommodated.
8. I would welcome parties constructively discussing matters with a view of facilitating a smooth hearing process. Such discussions and any resultant agreements and/or alterations to the Plan Change will need to be recorded in the section 42A report to be prepared by the Council officer.

#### **Site and Locality Visits**

9. I will be undertaking site visits prior to the hearing. I will do so unaccompanied by any other parties. If any party has a desire for me to visit particular sites or localities associated with PC40 then they should advise the UHCC Planning Administrator Helen Ellams ([helen.ellams@uhcc.govt.nz](mailto:helen.ellams@uhcc.govt.nz)) by 28 August 2017.

#### **Experts and attendance at the hearing**

10. Some submitters may choose to call expert witnesses in support of their submissions, while others will opt to 'go it alone'. In either case, all parties must provide the Council with a list of all individuals that will be presenting on their behalf by no later than 28 August 2017.
11. 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.

#### **Evidence Preparation and Circulation**

12. The timetable for proceedings is as follows:

<b>Date (2017)</b>	<b>Action</b>
<b>Monday 28 August</b>	All submitters intending to speak or be represented at the hearing submit to the Council a list of witnesses and speakers supporting their submission  All submitters wishing me to visit a specific site or locality as part of my formal site visits advise the Council.
<b>Monday 4 September</b>	The Council's s42A report is circulated to the parties
<b>Wednesday 13 September</b>	All submitters attending the hearing circulate expert evidence to the parties.

<b>Wednesday 27 September</b>	Likely date for Hearing commencement
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13. The Council will collate all pre-circulated evidence and make it available on the Council website. Further instructions about accessing this information (including where hard copies of the evidence may be viewed) will be conveyed by the Council following receipt of all materials.

**Hearing Process/Presentations**

14. At the hearing, all section 42A reports and pre-circulated evidence will be taken as read.
15. Each submitter will be given a chance to present their submission accompanied by any experts they may have to support their submission.
16. The submitter will introduce each expert, and I will ask the expert to confirm their qualifications and experience.
17. The witness will then confirm the matters of fact and opinion contained in their written evidence.
18. Each witness will then have the opportunity to draw my attention to the key points of their brief of evidence. No new evidence shall be introduced unless it is specifically in response to matters raised in the pre-circulated evidence of other parties, in which case, the new evidence shall be presented as an addendum to the primary brief of evidence and may be verbally spoken to by the witness. If there is any variation between the brief of evidence and what is said by the witness, the brief of evidence will take precedence unless the witness specifically amends the evidence.
19. I may then question the witness.
20. Non-expert evidence, including any lay evidence/submissions or legal submissions may be tabled and read aloud on the day that the relevant party appears at the hearing. It does not have to be pre-circulated.
21. With this approach in place, I envisage presentations will be in the ballpark of 15 minutes per speaker, though this is not a fixed time requirement. My intent in signalling this is less a stipulation that speakers rigidly adhere to an imposed time limit, and more a guide for those wondering how long their presentation is likely to last. Please advise the Council if you consider that a particular witness is likely to require longer than the 15 minutes and suggest an alternate time guide.
22. I want to be clear that all parties (applicant, submitters and officers) will be given the time they require to adequately present their views. The main reason in favour of pre-circulation of the applicant's evidence is to minimise the time required for all parties to be present at the hearing itself. This expedited process will not, however, be at the expense of any party's ability to fully participate in the process.
23. A useful guide to the conduct of hearings can be found at:

<http://www.mfe.govt.nz/publications/rma/everyday-guide-rma-appearing-council-plan-or-plan-change-hearing>

## Contact

24. If any party wishes to seek further clarification around the hearing process or the proposed timetable, please contact UHCC's Planning Administrator, Helen Ellams (ph. 04 5272169 or email [planning@uhcc.govt.nz](mailto:planning@uhcc.govt.nz)) in the first instance. In addition, any correspondence with me should be directed through Ms Ellams.

**DATED** this 14<sup>th</sup> day of August 2017



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DJ McMahon  
Independent RMA Hearings Commissioner