

DIRECTIONS OF THE COMMISSIONERS**MINUTE 1****INTRODUCTION**

- [1] Pursuant to sections 34(A)(1), 36B, 39A and 39B of the Resource Management Act 1991 (RMA), the Taupō District Council (Council) and the Tūwharetoa Māori Trust Board have jointly appointed and intend to delegate authority to independent commissioners Poto Davies, Rosanne Jollands, Steven Wilson, Douglas Fairgray and Rob van Voorthuysen the function to hear the submissions on Plan Change 36 – Whareroa North (PC36) and to make decisions on those submissions.
- [2] See [6] below in regard to the delegations matter.
- [3] The following directions and requests relate to the PC 36 hearing.

COVID- 19

- [4] These are uncertain times and the PC 36 hearing may need to be rescheduled given that we are now at New Zealand Covid-19 Alert Level 4. Alternatively, it may be feasible to hold the hearing by way of video conference. The Hearings Administrator will keep all hearing participants apprised of any developments as they arise.
- [5] Accordingly, the dates in the following Directions and requests may be subject to change.
- [6] Taupō District Council intends to delegate authority to the independent Commissioners, however due to Council meeting cancellations in response to Covid-19, this delegation has not yet occurred. Approving the delegations will require either Local Government New Zealand to review meeting quorum requirements or for a Council meeting to occur in April. There is a risk, depending on how the Covid-19 situation develops, that delegations may not be able to be approved prior to the hearing date in which case the hearing may need to be postponed.

HEARINGS ADMINISTRATOR

- [7] The Council has appointed a Hearings Administrator who is:

Carrie Robinson

crobinson@taupo.govt.nz

+64 7 376 0823

HEARING DATES AND TIMES

- [8] The hearing venue (or venues) will be advised in the notice of hearing which will accompany the Council's Section 42A report. That report will be available on the Council's website (see paragraph 42) and submitters will also receive the notice of hearing by email or surface mail.
- [9] The current hearing dates are:
- Wednesday 13 May to Friday 15 May
- [10] If additional hearing days are required then these will be scheduled subsequently.
- [11] The hearing will commence at 9.00am each day and generally conclude at 5.00pm.
- [12] Breaks during the day will be as follows:
- Morning tea 10.30 to 10.45am
 - Lunch 12.30 to 1.30pm
 - Afternoon tea 3.00 to 3.15pm
- [13] The Hearings Administrator will be contacting submitters who stated in their submission that they wished to be heard to confirm their attendance at the hearing and to determine an allocation of speaking time.

Thereafter, a schedule of appearances will be developed and distributed to submitters. That hearing schedule may be subject to change as the hearing proceeds and any changes will be posted on the Council's website.

[14] The general order of appearance at the hearing will be:

- Procedural matters (if any)
- the Proprietors of Hauhungaroa No 6 (the Incorporation) who requested PC 36 and any expert witnesses called by the Incorporation
- Submitters
- Section 42A report author(s)
- The Incorporation's reply (which may be given at the hearing or in writing thereafter)

[15] Submitters wishing to be heard (and who are not calling witnesses to support their case) will generally each be allocated up to **45 minutes** to speak to their submissions or further submissions, unless a longer time slot is specifically requested.

[16] Submitters raising the same or similar matters of concern are encouraged to group together and make joint presentations at the hearing.

EXPERT WITNESSES

[17] Pursuant to section 41(4) of the RMA, all participants (the Incorporation, the Council Section 42A report author(s) and submitters) are requested to advise the Hearings Administrator of the names of any experts that they intend calling and those expert's respective areas of expertise on or before **Thursday 9 April 2020**.

PRE-CIRCULATION OF MATERIAL

[18] A Council Section 42A report¹ will be made available on or before **Wednesday 22 April 2020** and shortly thereafter posted on the Council's website, allowing the Incorporation and submitters to have regard to its contents when preparing their evidence. It would be extremely helpful to the Commissioners if the Incorporation and submitters could indicate in their evidence whether or not they agree or disagree (with reasons) with the Section 42A report author's conclusions and recommendations.

[19] Pursuant to section 41B(2) of the RMA, the Incorporation as requester of PC 36 is to provide its briefs of expert evidence to the Hearings Administrator no later than 4.00pm on **Wednesday 29 April 2020**.

[20] If expert witnesses for the Incorporation of PC 36 intend to base their briefs of evidence on technical reports that they authored and which have already been made available to the Commissioners and submitters, then the expert witnesses need not repeat material contained in those reports in their evidence. It will be sufficient for the evidence to cross-refer to that material.

[21] Pursuant to section 41B(3) of the RMA, submitters who intend to call expert evidence² in support of their submissions are directed to provide written briefs of that evidence to the Hearings Administrator no later than 4.00pm **Wednesday 6 May 2020**.

[22] If Submitters intend to provide written evidence themselves, or have non-expert people appear on their behalf, then they are requested and strongly urged to also provide a written statement of that evidence to the Hearings Administrator no later than 4.00pm on **Wednesday 6 May 2020**.

[23] If expert witnesses for the Incorporation intend to prepare rebuttal evidence in response to expert evidence lodged by submitters, then the Incorporation is requested to provide those briefs of expert evidence to the Hearings Administrator by 4.00pm **Friday 8 May 2020**. However, we appreciate that is a tight timeframe and

¹ The s42A Report includes a discussion of the submissions and further submissions. It recommends (with reasons) whether any changes should be made to the notified Plan Changes in response to the submissions and further submissions. Those recommendations do not bind the Commissioners.

² Expert evidence is that written by qualified planners, engineers or scientists, for example, prepared in accordance with the Environment Court's Practice Note 2014 for expert witnesses.

so if it is unable to be met the statements of rebuttal evidence may be tabled at the hearing and read aloud by the authors. In either case the Commissioners anticipate that any rebuttal evidence will be concise and not raise new issues.

- [24] All expert witnesses presenting briefs of evidence are to include a summary statement that is no more than two A4 pages long at the beginning of their evidence.
- [25] If the Incorporation intends to have legal counsel present opening legal submissions, it is requested to provide those submissions to the Hearings Administrator no later than by 4.00pm **Friday 8 May 2020**. As with Incorporation rebuttal evidence, if the timeframe for legal submissions cannot be met then the legal submissions may also be tabled and read aloud at the hearing.
- [26] Apart from Incorporation rebuttal evidence and legal submissions that may be tabled at the hearing, all original submissions and pre-circulated written evidence will be taken as read. Accordingly, pursuant to section 41C(1)(b) of the RMA, the Incorporation and submitters are directed that they and their experts will not be required to read any such material aloud at the hearing. Reading that material aloud at the hearing would be an inefficient use of time as the Commissioners will have already read it.
- [27] However, experts presenting evidence may be asked to read out their summary statements and submitters will be asked to highlight key points for the benefit of the Commissioners. The Commissioners will then ask any questions they may have.
- [28] Should any submitter wish to speak in Te Reo, utilise Sign Language, or utilise visual aids (PowerPoint, etc) they are requested to liaise directly with the Hearings Administrator, as soon as possible, but prior to **Thursday 9 April 2020** regarding their needs.

COMMISSIONER QUESTIONS

- [29] The Commissioners intend to put any questions they have for the Section 42A report author(s) in writing with those questions to be answered in writing either prior to or at the hearing. The same process is intended for the primary evidence prepared by the Incorporation's witnesses, and if time allows, for experts called by submitters. This practice facilitates an efficient hearing process and the provision of quality answers to those questions.
- [30] The questions will be the subject of further Minutes. Those Minutes will specify the deadlines by which the written answers are to be provided to the Hearings Administrator.

RECORDING

- [31] The hearing will be recorded but the recording will not be transcribed.

PRE-HEARING MEETINGS

- [32] If participants (the Incorporation, the Council or submitters) wish to hold pre-hearing meetings³ then resultant pre-hearing reports are to be prepared and provided to the Hearings Administrator by 4.00pm on **Wednesday 6 May 2020**.
- [33] Given the current situation with Covid-19, pre-hearing meetings need not occur in person and may occur remotely.
- [34] The Hearings Administrator can assist with organising pre-hearing meetings.

EXPERT CONFERENCING / CAUCUSING

- [35] Either prior to or following the exchange of expert evidence as detailed above, the Commissioners request that all participants calling expert witnesses liaise amongst themselves, along with the Hearings Administrator, in order to facilitate their respective experts conferencing on matters relevant to their specific areas of expertise (including any applicable amendments to the notified version of PC 36).

³ The Council may invite some or all of the submitters to attend a meeting, the purpose of which is usually to clarify submitter issues and see if those issues can be resolved.

[36] Given the current situation with Covid-19, expert conferencing need not occur in person and may occur remotely.

[37] If expert conferencing occurs then a Joint Witness Statement (JWS) is to be prepared for each specific topic of expertise and be provided to the Hearings Administrator by 4.00pm on **Wednesday 6 May 2020**. The Commissioners anticipate that experts for the Incorporation will assume responsibility for preparing each JWS unless the conferencing experts decide otherwise amongst themselves. The Commissioners may request further conferencing during the course of the hearing.

[38] All expert witnesses, in both preparing and presenting their evidence as well as when attending expert conferencing, are expected to comply with the Environment Court Consolidated Practice Note 2014 – Expert Witness Code of Conduct available at the following website

<http://www.justice.govt.nz/courts/environment-court/legislation-and-resources/practice-notes/expert-witness.html>

SITE VISIT

[39] The Commissioners intend to undertake a preliminary site visit prior to the hearing commencing. Participants are requested to inform the Hearings Administrator by 4.00pm on **Thursday 9 April 2020** of any areas of interest, along with supporting reasons, that they would wish the Commissioners to include within their site visit. A further site visit may be undertaken before the hearing is closed.

CORRESPONDENCE

[40] Participants must not attempt to correspond with or contact the Commissioners directly. All correspondence relating to the hearing must be addressed to the Hearings Administrator.

SERVICE OF DOCUMENTS

[41] All written material (evidence, pre-hearing reports, JWSs and legal submissions) addressed by this Minute must be lodged with the Hearings Administrator by either:

- Preferably email; or
- Post addressed to Carrie Robinson, Taupō District Council, Private Bag 2005, Taupō Mail centre, Taupō 3352; or
- Hand delivery to Carrie Robinson, Taupō District Council, 46 Horomatangi Street, Taupō 3330.

[42] All written material received will be made available as soon as reasonably possible on the Council website at the following link:

<https://www.taupodc.govt.nz/council/consultation/whareroa-north-plan-change>

DEVIATION REQUESTS

[43] If any participant wishes to deviate from any timetable or other requirement identified in this Minute a written request to do so (inclusive of reasons) must be addressed to the Commissioners, and be provided to the Hearings Administrator. The Commissioners will consider and determine any such requests.



Rob van Voorthuysen

Independent Commissioner - Chair - on Behalf of the Commissioners

Dated: 27 March 2020