

## **PRIVATE PLAN CHANGE 48: WAIRAU ROAD, OAKURA REZONING**

### **DIRECTION ON FURTHER EVIDENCE**

#### **Introduction**

1. The hearing of Private Plan Change 48 (PC48) was adjourned on 26 July 2019. I directed the applicant to file a memorandum addressing procedural issues and the appropriate next steps.
2. It was also requested that the section 42A authors respond to the matters raised during the course of the hearing in writing including; landscape and visual effects, traffic and transport network safety and efficiency, stormwater effects, cultural impacts and social impacts. The view at the time was that further evidence could be provided before or as part of the closing submissions.
3. I have received responses to the above, including:
  - a memorandum from legal counsel for the applicant setting out a proposed timetable and process dated 31 July 2019.
  - a memorandum from legal counsel for Peacock, Shearer, Looney and Looker (submitters in opposition) dated 6 August 2019.
  - emails from Sam Dixon and Richard Shearer dated 2 August 2019.
  - a supplementary memorandum from legal counsel for the applicant responding to the above, dated 12 August 2019.
  - the section 42A author report dated 19 August 2019 responding to submissions and evidence heard at the hearing.
  - Some 25 submitters responses including the Kaitake Community Board regarding procedural matters and next steps.
4. I have reviewed and considered the above prior to issuing this direction.

#### **Request for further evidence**

5. Commissioners have broad discretionary powers to determine the appropriate next steps in this proceeding. Those powers are established under the Resource Management Act 1991 (RMA), in particular Sections 41A-D that give commissioners authority to conduct the hearing, request evidence and further information, make directions and strike out submissions.
6. Pursuant to s41(1) of the RMA, the provisions of the Commissions of Inquiry Act 1908 apply to the conduct of hearings, including s4B which relates to evidence. Section 4B of the Commissions of Inquiry Act 1908 provides:

*S4B(1) The Commission may receive as evidence any statement, document, information, or matter that in its opinion may assist it to deal effectively with the subject of the inquiry, whether or not it would be admissible in a Court of law.*
7. Section 39 of the RMA requires that where a local authority, or person given authority to conduct hearings, holds a hearing into a plan change, it shall be held in public, and it *shall establish a procedure that is appropriate and fair in the circumstances.*

8. I need to be satisfied that there is sufficient, relevant and necessary information to make a determination on the proposal.
9. It is noted that a large majority of original submissions in opposition were produced in a pro-forma template and were generic. A very substantial amount of lay evidence (not circulated) was presented at the hearing, much of which expanded on submissions to a significant extent.
10. I am of the view that the principles of natural justice require that the applicant be given a fair opportunity to respond to the evidence presented during the course of the hearing. Much of that response can be presented in closing legal submissions. However, I am of the view that the opportunity for further evidence to be presented, particularly in those areas identified by the s42A authors as being uncertain and/or unresolved and considering the evidence presented by submitters, needs to be provided. It is my opinion that this information would assist me to deal effectively with the subject matter of the hearing.
11. When new evidence is called, sufficient time needs to be allocated for the expert witness to prepare evidence, for the evidence to be circulated and then for parties to respond to that evidence, (and only to that evidence and not to repeat evidence already provided at the hearing) before the reconvened hearing.
12. The section 42A authors have provided a comprehensive assessment of the information presented at the hearing in the 19 August supplementary report. In that regard I have relied on that advice to identify the further evidence that is being requested. This includes:
  - **Landscape and visual effects.**
  - **Traffic and transport network safety and efficiency**
  - **Stormwater Effects**
  - **Cultural Impacts**
  - **Social Impacts**
13. It is requested that evidence to address those matters listed above as identified in the section 42A response (dated 19 August) be provided by the applicant. The expectation is that the further evidence will be focussed on the matters listed above and there will be appropriate care to avoid matters outside this scope, new matters and unnecessary repetition.

**Proposed timetable**

14. I have set out below a proposed timetable for the production of the further evidence, an opportunity for submitters to respond to the evidence, and the reconvening of the hearing. At this stage it anticipated a one- day hearing would be appropriate to hear a summary of the expert evidence and hear from submitters in response to that evidence.
15. In regard to hearing from submitters at the hearing, I am are mindful that a requirement of non-repetition should be strongly adhered to by submitters. In that respect, I may also consider the need for any presentations to be completed within specific time limits. I will issue a direction providing some guidance on this matter closer to the hearing.

1	Section 42A written report received and circulated/published on website.	19 August 2019
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3	Further evidence filed in respect of the following matters; 1. Landscape and visual effects. 2. Traffic and transport network safety and efficiency. 3. Stormwater effects. 4. Cultural impacts. 5. Social impacts.	By noon, Friday 11 <sup>th</sup> October 2019
4	Evidence published on website and circulated to submitters.	By noon, Monday 14 <sup>th</sup> October 2019
5	Filing of expert evidence from submitters.	15 November 2019
6	Supplementary report from 42A report authors addressing further evidence circulated.	5 working days before hearing
7	Reconvene hearing to hear expert evidence summaries, submissions from submitters and answer questions. This date to be determined as soon as possible.	Early December
8	Closing submissions from applicant in writing.	10 working days from close of hearing
9	Deliberations and decision.	To be advised

16. In closing, I am mindful that this process may be new or unfamiliar to submitters. I would like to inform the parties that I have not made a decision on PPC48 and will not make a decision until the hearing of the further evidence, hearing from submitters, receiving the closing submissions of the applicant and the hearing has been closed.



Bill Wasley  
Commissioner

Dated this 6<sup>th</sup> day of September 2019