

August 18th, 2019

Messers Wasley & Coffin, Hearing Commissioners.

Re Plan 48 Wairau Farm Estates

Thank you for your invitation to submit further regarding the application by Mr. Muldowney, Counsel for Mike McKie in the matter of the planning hearing for the application to develop the Wairau Farm land.

I've read and re-read the 3 memorandum submitted on July 31, August 6th and August 12th and, after having heard Mr. Muldowney's opening statement on Day 1 of the hearing (July 21st), I've also read the transcript of his comments - and I have a few observations I wish to share with you.

I'll respond to several points raised in the three memos, identifying each by the numbers in J31, A6, A12.

In outlining the case for the applicant Mr Muldowney referred several times to the report (S42A) by Hamish Wesley and Anna Stevens, particularly their recommendation to reduce the development footprint due to a number of infrastructural reasons, and Mr. Muldowney foreshadowed the intention during the evidence given by his technical team to address these issues. It hardly seems fair now that the applicant seeks a lot more time to study their recommendations. Surely that was the purpose of his technical teams' comprehensive presentation of evidence.

He noted (#3, J31) that the S42A report did not make any final recommendations regarding the unresolved traffic issues. I note that you, the Commissioners, have asked the authors of S42A for a final report and, if there are any contentious conclusions in that report, opportunity should be given for a response by any interested parties.

He further stated (#9, J31) that evidence 'would likely be necessary to address the S42A author's recommended reduced scale and density of development'. His experts have already offered contradictory evidence and opinions during the hearing.

In the normal course of event in such a hearing the applicant would have been given a right of reply at the conclusion during which time they would have been able to refute or question points they disagreed with. They would not have been given several months to prepare their concluding remarks as Mr Muldowney seeks in his memorandum (#12, J31)

If the commissioners, who as he says have considerable discretionary powers, decide that the applicant should have a right of reply after the S42A conclusions are received and posted they could surely expeditiously reconvene the hearing to hear the applicant's closing statement. This should not be in several month's time.

In Mr. Grieve's August 6th response several points are quite germane:

#16, A6 argues that if the Commissioners allow the applicant further opportunity to present evidence that there should be a directive as to specifically what additional information could be presented.

In Mr Muldowney's rebuttal (August 12th) he quotes extensively from the RMA to support his claim to be allowed considerably more time to prepare and submit the applicant's response. (#3,4, A12)

Several times he directs attention to provisions of the Act permitting Commissioners discretion in conducting the hearing (#6,7, A 12) and asserts the Commissioners have discretionary powers to "hear whatever evidence they consider necessary" (#8, A12). The discretion lies with the Commissioners, not with the applicant or his counsel.

The unsubstantiated claim that " a substantial body of evidence ..presented at the hearing which had not been pre-circulated'" (#9, A12) suggests that many of the lay witnesses (such as myself) were presenting expert testimony which requires a lot of work on the applicant's behalf is questionable. Did the Commissioners sense this to any degree during the proceedings?

I hope the Commissioners will not be influenced by the veiled threat (# 11, A12) 'that closing the hearing prematurely'"will result in an injustice, and unnecessarily give rise to appeal"!

Finally I refer to the closing comments in my original submission late on day 4 (July 25th) in which I suggested that Mr Mckie should consider withdrawing his application and take the time to refine his proposal and come back with a new Plan change which accurately addresses the concerns of the large number of submitters and which also takes into account the considerable body of evidence which questions the scale and scope of the proposal.

This is reinforced by comments in the August 6th memorandum (#31,32, A6) - -
- and even in the August 12th memorandum which presents arguments for more time to prepare and present additional information, acknowledging significant changes need to be made (12, 13,15, A12)

Mr. Mulwoneyt makes the case (#14, A12) that “the RMA specifically enables the Commissioners to make consequential alterations to the proposed plan arising from the submissions”

That should be sufficient to enable the Commissioners, having sat through a long week of submissions both for and against this proposal, to make an informed judgment and make their recommendations.

Thank you.

Cam Murray