

MINUTE 1 OF HEARING COMMITTEE

Introduction

1. A Hearing Committee has been appointed by the Upper Hutt City Council (“UHCC” or “the Council”) to hear and determine Proposed (Private) Plan Change 40 (“PC40”) to the Upper Hutt District Plan by Wallaceville Developments (“the applicant”), including the submissions lodged on PC40.¹ The general function of this minute is to set out some preliminary matters in preparation for the hearing, which is set down for early to mid-July. In particular, our 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 we will now outline in detail.

2. In this respect, this minute covers the following matters:

- (a) Hearing Date
- (b) Pre-hearing discussions/conferencing
- (c) Evidence Preparation and Circulation
- (d) Hearing Process and Presentations
- (e) Site and Locality Visits

3. It is possible that there will be further instructions issued by way of Committee Minute before and after the hearing.

Hearing Date

4. We are advised by the Council that the hearing is likely to commence on 8 July 2015 at 1pm and run for two days with provision for reserve days on 10 and 13 July 2015 (should it be necessary). We are also advised that the Council will officially write to all submitters shortly with final confirmation of the exact hearing dates and will invite submitters to book a timeslot for the presentation of their submissions where attendance at the hearing has been sought and is still required.

Pre-hearing meetings and conferencing

5. We do not propose to formally direct the undertaking of, or participation in, formal pre-hearing meetings, discussions or expert conferencing.

6. However as a first principle, we encourage parties to meet and hold discussions prior to the commencement of the Hearing. This includes general meetings 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; for Wallaceville Developments and the Council to better understand what the submitter’s concerns are and how they might be accommodated; as well as conferencing between any technical experts engaged by any party.

¹ Our powers are to issue a recommendation to the Council which can, in turn, decide to accept or not.

7. Without wanting to prejudge the issues prior to the hearing, it is apparent to us from our preliminary review of submissions that have been lodged, that a number of matters are worthy of discussion between the parties prior to the hearing being held. We have reviewed the submissions to PC40 and consider that the primary matters can be grouped into the following:

- Stormwater;
- Traffic and road layout;
- Noise; and
- Urban form and design.

8. The matter of **stormwater** has been raised by a number of submitters and concerns can generally be considered in one of two categories, being:

- Constraints on the stormwater management system, including achieving stormwater neutrality, risk to increase overland flows and avoidance of flooding (four submitters); and
- The use of Grants Bush and/or the floodplain remnant and potential adverse effects on these ecological sites (four submitters).

9. We are aware that the Council, Wellington Water and their experts intend to continue engaging with the applicant and their experts to reach an agreement prior to the hearing. We encourage the applicant to engage with all other parties on this matter also, to seek a mutually amicable resolution to these issues.

10. **Traffic and road layout** is primarily an issue to be discussed between the Council, the Applicant and submitter New Zealand Transport Agency (“NZTA”). We strongly encourage further discussion on a first-hand (without prejudice) basis between these parties to determine an agreed solution, if possible, to this matter prior to the hearing commencing. Where other submitters wish to engage with the applicant in conferencing on traffic and road layout matters, this is also encouraged.

11. From our reading of the submissions, **noise effects** associated with the proposal are limited to potential reverse sensitivity effects on submitters including:

- KiwiRail Holdings Limited;
- Ministry for Primary Industries;
- New Zealand Defence Force; and
- Heretaunga Pistol Club.

12. It is our understanding that there has been some discussion between the parties in relation to noise, and we would encourage all parties to re-enter discussions with the intent of reaching an amicable solution.

13. **Urban form and design** matters raised in submissions are considered to relate to the following:

- the inclusion of additional provisions in the District Plan;
- increased urban density;
- sustainability;
- boundary setbacks; and
- building height.

14. Again, pre-hearing discussions on these urban form and design matters between the applicant, the Council and submitters is encouraged to reach a mutually agreeable conclusion prior to the hearing commencing.
15. For completeness, we note that discussions/conferencing is not mandatory in this instance. However, if any parties are able to constructively discuss matters with a view of facilitating a smooth hearing process, we welcome this.
16. To be clear, the reasons for conferencing are:
- To clearly identify the areas of agreement and disagreement between the parties;
 - To enable a more focused and concise hearing process on technical matters
17. The output of any conferencing process shall be the production of a report and/or joint witness statements to be circulated to all interested parties prior to the commencement of the hearing. It would be prudent for the applicant to organise this on behalf of all parties (including the Council). The reporting back date to the Council Hearing Administrator is 1 July 2015 (or earlier if possible including interim reporting if preferable).
18. Before leaving this topic, we simply record that we appreciate that the timetable is tight for all parties, particularly the applicant who we prefer to pre-circulate its evidence (see discussion below). However we wouldn't suggest this additional "discussion of the parties" step if we did think there was some merit with it. If it does nothing but narrow the issues it is still valuable. If it resolves certain submissions then that is even better. To the above end, we are prepared to allow some slippage for the pre-circulation of applicant's evidence if that assists. That will still enable some pre-reading. We can make a ruling on this closer to the time depending on the content of the report on 1 July.

Evidence Preparation and Circulation

19. Notwithstanding our direction for pre-hearing discussions, we anticipate that some parties will be still need to call expert witnesses in support of their submissions, while others will opt to 'go it alone.' In either case, we request that all parties provide the Council with a list of all individuals that will be presenting evidence on their behalf by no later than 3 July 2015.
20. This instruction applies even if a submitter is representing his/herself without any additional representation. 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.
21. To assist with this we have also directed that the Council s42A report on the plan change and the submissions to it is circulated to all parties in advance of the 5 days minimum prior to the hearing.
22. The proposed timetable for proceedings is as follows:

Date (2013)	Action
Wednesday 17 June	UHCC – s42A report to be circulated to the parties
Wednesday 1 July	Applicant reporting on discussions/conferencing with submitters/Council officers.
Friday 3 July 2015	<p>All Submitters attending the hearing – to provide a list of evidence authors / witnesses to be called in support of their submission(s) to the UHCC (plus any site and localities that they wish us to visit prior to the hearing).</p> <p>Applicant's evidence – to lodge with UHCC all written evidence in support of the application (or later by agreement)</p>
Wednesday 8 July	<p>See email contact details below for Ms Barker</p> <p>Likely date for Hearing commencement</p>

23. For completeness, we are happy to hear any legal submissions during the proceedings themselves, and there is no need for these to be pre-circulated.

24. We understand that 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

25. As the applicants evidence is being distributed to all parties prior to the hearing, and will be read by us prior to the hearing commencing, it will not be necessary for a verbatim oral presentation of the applicant's written evidence at the proceedings. We are happy for the applicant's witnesses to speak to a summary of their evidence, which could either be:

- a separate tabled statement that condenses the key points from evidence (i.e. a couple of pages); or
- via highlighting particular points within their evidence during their presentation.

26. We are happy for the above approach to extend to submitters and Council reporting officers also.

27. With this approach in place, we envisage presentations will be in the ballpark of 15 minutes per speaker, though this is not a fixed time requirement. Our 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.

28. We 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.

Site and Locality Visits

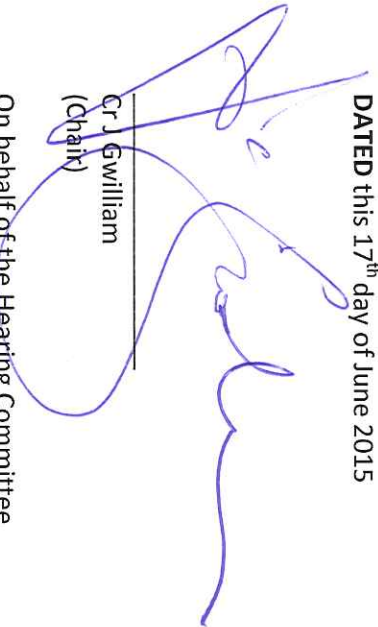
29. We recognise that a site and locality visit will be necessary during the process of the hearing. Apart from our general visit to the site and locality prior to the hearing commencement, if any party has a desire for us to visit particular sites/localities associated with PC40 then they should advise Ms Barker of that as soon as practicable. We would suggest that this could be done at the same time that they respond to the Council regarding the list of evidence authors/ witnesses to be called in support of their submission(s) (i.e. by 3 July 2015).

Next Steps

30. As indicated by the proposed timetable above, we now invite all parties to provide a list of evidence authors / witnesses appearing on their behalf at or before 3 July 2015. This is two days following the applicant's filing of its report on the outcomes of conferencing/discussions with submitters and Council.

31. If any party wishes to seek further clarification around the hearing process or the proposed timetable, please contact UHCC's Planning Technician, Ms Coralie Barker (ph. 04 527 2858 or email planning@uhcc.govt.nz) in the first instance.

DATED this 17th day of June 2015



Cr J Gwilliam
(Chair)

On behalf of the Hearing Committee

