

UPPER HUTT CITY COUNCIL
PROPOSED PLAN CHANGE 42
MANGAROA AND PINEHAVEN FLOOD HAZARD EXTENTS
MINUTE 2 OF COMMISSIONER

Introduction

1. The hearing of submissions on Plan Change 42 commenced on Wednesday, 27 September 2017. After hearing from Council Officers and submitters, the hearing was subsequently adjourned on Friday 29 September 2017, pending the completion of several post-hearing tasks as discussed below.
2. The purpose of this minute is to:
 - a. provide additional information requested by parties at the hearing; and
 - b. update all parties on the pending hearing actions and the timetable for completing those actions.

Information requested at the hearing

3. At the commencement of the Hearing, the Council's planning experts set out a factual overview of the plan change and their report and recommendations on the submissions received. Over the course of their presentation – and indeed over the ensuing two days – I asked several questions of clarification, and made multiple requests for further information on a range of matters.
4. At the close of proceedings on Day 2, one of the submitters in attendance asked that I make available to all parties a list of those questions and information requests. I gave an undertaking to do so, both as a result of the submitter's request, and to ensure that the Council's representatives have a clear indication of the matters I expect to hear back from them on.
5. Accordingly, I have attached – at **ANNEXURE 1** – an index of the questions and information requests I recorded over the course of the hearing. I'm aware that the Council Officers may wish to address me on other matters arising from the presentations of submitters in addition to these matters as they deem appropriate.

The Council's Reply

6. At the commencement of the hearing, I indicated that I would be happy to receive the Council's final reply either verbally, in writing or a combination of the two. In the final session on Day 3 of the hearing, the Officers provided an interim verbal reply on planning, engineering and other matters on the understanding that a more fulsome written response would be forthcoming.
7. At the time, I indicated that I would set down a timetable for the circulation of the reply in this minute.

8. Accordingly, I request the Council's final reply be provided in writing by **5pm on Friday 20 October 2017**.
9. The reply will be duly made available to all parties on the Council website and I will provide confirmation of the hearing closure in the week commencing the 23rd of October unless I find the need for any further material.

Site visits

10. As noted at the hearing, I will be conducting site visits from this week. In the event I need to access specific properties, I will make arrangements to do so prior to my arrival.
11. I remind all parties that I will not be discussing any substantive matters with submitters whilst conducting site visits. I might require some assistance for wayfinding or health and safety purposes, but further discussions about the hearing, submissions or other related matters will not be entertained.

Next Steps

12. As indicated above, I now request the Council delivers its final reply by 5pm on 20 October.
13. I will issue an additional minute once that material is received and my site visits are complete.
14. In the meantime, if any party wishes to seek further clarification around the hearing process or this minute, contact UHCC's Planning Administrator, Helen Ellams (ph. 04 5272169 or email planning@uhcc.govt.nz) in the first instance.

DATED this 2nd day of October 2017



DJ McMahon
Independent RMA Hearings Commissioner

ANNEXURE 1 –

Summary of information requested from officers during hearing proceedings

1. What information can be provided in relation to the planned structural works in the Pinehaven Stream, including:
 - a. funding provision in the UHCC Long Term Plan / Annual Plan;
 - b. general terms/agreement between UHCC and GWRC
 - c. indicative nature/extent/objective/timing of any potential Notice of Requirement
2. Please confirm the process of GWRC's 'adoption' of the Pinehaven Flood Management Plan in June 2016. (*NB – evidence on this matter subsequently provided by Ms Westlake for GWRC*)
3. Is the definition of "flood hazard extent" sufficiently clear in defining Erosion Hazard Areas as both 'high' and 'lower' hazard areas; and does that categorisation appropriately align with the proposed Policy Direction for high and low hazards and the activity status for subdivision and land use activities subject to high and lower hazard risk?
4. Can a table/diagram be provided to illustrate the various overlays/hazard extent areas and their application in the plan change?
5. Please update Appendix 1 to the opening statement (*Plan Change 42 Pinehaven and Mangaroa Flood Hazard Extents – Policy and Rule linkages*) to indicate activity status for each rule (as per the right-hand column of the first row on p.2).
6. Please confirm if RMA Section 6(h), introduced by way of 2017 amendment, is relevant to the determination of this plan change.
7. Two questions re: the activity status for various matters in the plan change as a method to implement the 'avoid' policy direction adopted for high hazard areas:
 - a. is Discretionary Activity status an appropriate method to implement an 'avoid' outcome; and
 - b. alternatively, is Non-Complying status too stringent (at least for some activities) given the 'avoid' direction will likely be unachievable in the context of the policy 'limb' of s104D of the Act?
8. Please clarify the number of properties anticipated to be inundated in the model level event for Mangaroa River (per 2015 Report, Revision F).
9. Broadly, how many properties are contained within the Erosion Hazard Area and not within any of the 'stream/river corridor', 'overflow path' or 'ponding area'?
10. Please clarify the apparent omission at para 258 of the s42A Report in relation to Mr Allen's submission.
11. Please confirm if the word 'and' in the last line of paragraph 313 of the s42A Report is correct, or if it should read 'any'.
12. In relation to Council's inclusion of rules within the stream and river corridors:

- a. please confirm how these provisions 'have regard to' related provisions of the Proposed Natural Resources Plan (s74(2)(a), RMA) and 'are not inconsistent with' the relevant provisions of the operative Regional Plans for the Wellington Region (s75(4)(b), RMA);
 - b. relatedly, please clarify how the proposed provisions distinguish and/or duplicate s30 and s31 (RMA) functions.
13. Mr Law to provide written update of minor corrections to his evidence in chief (at paragraphs 53 and 62).
14. Mr Law to obtain peak flow volumes from GWRC for 1:25 and 1:100-year events.
15. Mr Law / Mr Christensen to discuss the running of the 1976 flood event as a test scenario in the flood model.
16. Please provide copy of the high court decision tabled by Mr Jefferies to DLA Piper for their consideration, including any bearing that decision has on the advice attached to the s42A Report.
17. To what extent has potential urban development in the 'Southern Hills Growth Area' (and associated increased runoff) been considered in the flood modelling underpinning PC42? If the level of growth turns out to be more intense than predicted, what will the result be?
18. What provisions currently apply to the Southern Growth Area in the District Plan and what level of subdivision and development is anticipated (based on activity standards)? If the area was subject to a plan change or resource consent to intensify/urbanise, would drainage and flooding be a material consideration for determining such a proposal? If those effects are assessed as being significant on properties downstream, could the proposal be rejected? Is there a potential scenario where such a future proposal would entail amendment to the flood extent maps?
19. Related to the previous questions, is there any preliminary indication as to what extent would any structural works in the Pinehaven Stream be likely to mitigate increased runoff from future development in the Pinehaven Catchment and/or improve existing drainage?
20. Has UHCC or GWRC produced any 'plain English' guides to what the flood hazard extent maps mean? Would such a guide assist with the community's understanding? Would it assist other relevant institutions, such as insurers, banks?
21. Mr Law to provide some explanation as to why the flood extent maps discussed in Mr Hall's evidence for 27 Elmslie Road are materially different to the PC42 flood extent area.