

**IN THE MATTER OF:
AND IN THE MATTER OF:**

the Resource Management Act 1991
Proposed Plan Change 49 - Open
Spaces (PC49) to the Operative Upper Hutt
District Plan; and Variation 1 to PC49

MINUTE (5) OF THE INDEPENDENT HEARING PANEL APPOINTED BY UPPER HUTT CITY COUNCIL

RE: PROCEDURAL MATTERS ARISING FROM HEARING

Introduction

1. You have received this Minute because you have either made a submission, have been involved in the preparation of, or are an expert witness in the matter of Plan Change 49 and Variation 1 to the Operative Upper Hutt District Plan (PC49 and Variation 1).
2. The Panel heard evidence and submissions from Monday November 27 until Thursday November 30 2023. This Minute addresses a number of procedural matters that were raised during the hearing.

Forest and Bird objection to further statement of Dr Keesing

3. Council received an email at 10.27am on Wednesday 19 November from Tim Williams, Counsel for Forest and Bird which was provided to the Panel shortly thereafter. The email read,

I'd like to object to the further statement of Dr Keesing being admitted, it has not been provided to us, and is inconsistent with the Panel's memo re deadline for expert evidence.

4. The Panel **received and considered** the email. The Panel notes that upon receipt of Dr Keesing's handout at the hearing, the Panel made it clear to all parties that the document was incorrectly titled as "rebuttal evidence". The Panel received his paper as his speaking notes. The Panel reminded those speaking on behalf of GTC that this was a Council initiated Plan Change and Variation process and there would be no rebuttal by submitters.
5. The Panel notes that the purpose of a hearing is for it to hear evidence and submissions and for it to inquire so that it has all the necessary information it requires to make a recommendation.
6. In a hearing submitters speak in a prearranged order based on their preference and availability. Someone has to speak first. Others can hear what they have said. The whole hearing was livestreamed. It is inevitable that later presenters may reflect on what has been

presented to the Panel by earlier submitters and experts. It is unfortunate that Dr Keesing's speaking notes were framed as "rebuttal evidence" but his presentation was on point and did not introduce any material that would disadvantage anybody, it simply expressed in detail his expert views on other evidence he had already heard.

7. He demonstrated that there are clearly disparate views between the ecological experts as to the values and extent of ecological values present within the Spur.
8. As signaled at paragraph 3 of Minute 3, the Panel anticipates that Dr Keesing and the ecological expert for Forest and Bird will participate in expert conferencing in conjunction with the Council's ecology expert witness. All ecological matters of agreement and disagreement between the ecology experts will be set out in a joint witness statement and provided to the Panel. The Panel will issue a direction on this matter in late January 2024.

Late submissions

9. The Panel is aware of the following late further submissions on PC49:
 - (a) FS48 – Sue Pattinson
 - (b) FS49 – James Hill
 - (c) FS50 – Clint Bennett
10. The Panel records that pursuant to Clause 98(3) of Schedule 1 of the RMA, all late further submissions are accepted.
11. The Panel is satisfied that no submitters or other persons would be unfairly prejudiced as a result of the late further submissions being accepted.

Withdrawal of submissions

12. The Panel notes the withdrawal of the submission by John Ross on behalf of Silverstream Retreat (S18). The Panel notes the withdrawal of S18 has the potential to affect parts of the following further submissions and this will be considered during deliberations:
 - (a) FS8 – Helen Chapman (opposed S18)
 - (b) FS9 – Graham Bellamy (opposed S18)
 - (c) FS10 – Save Our Hills (opposed S18)
 - (d) FS11 – Susan Kefali Pattinson (opposed S18)
 - (e) FS12 – The Guildford Timber Company (supported S18 in part)
 - (f) FS13 - Duncan Stuart (opposed S18)
 - (g) FS16 – Forest & Bird (opposed S18)
 - (h) FS19 – Silver Stream Railway Incorporated (opposed S18)
 - (i) FS20 – Caleb Scott (opposed S18)
 - (j) FS23 – Tony Chad (opposed S18)

Clarification of use of word 'imminent'

13. A number of submitters who had watched the presentation of Emily Thomson's 42a report via the live online streaming link understood Ms Thomson to say that "a proposal for a road is imminent". They raised this as a concern during their presentations to the Panel.

14. Ms Thomson responded that it was not what she had said, and the context of the statement that she had made was the contrary to that, saying “if a proposal for a road is imminent”..... (
15. The Panel conferred and none of the members had perceived Ms Thomson to say that a proposal for a road was imminent. The Panel noted that had such a statement been made the Panel would have made considerable enquiries about that.
16. Ms Thomson reviewed the online recording of the hearing. She advised that the critical word “if” was muffled on the recording. She could therefore understand the perception that viewers had formed and clarified that no road proposal was imminent as far as she knew. The Panel accepts that is her position.



Sue Wells
Chairperson, on behalf of the Independent Hearings Panel
14/12/2023