

UNDER the Resource Management Act
1991

AND

IN THE MATTER of a request by
Welhom Developments Limited to
Masterton District Council for a private
plan change to the Combined Wairarapa
District Plan

**Masterton District Council
Hearing of Private Plan Change Request by Welhom Developments Limited
State Highway 2, Lansdowne, Masterton**

**Minute #2 of Independent Hearing Panel
Dated: 1 March 2023**

Introduction

1. This Minute is being sent to you because you are either the Requestor, a submitter or a Council reporting officer to the above private plan change proposal.
2. This minute covers the following matters:
 - a. Request from Waka Kotahi to supply late evidence; and
 - b. Direction under Section 41C(4) for a Report to be prepared concerning the National Policy Statement – Highly Productive Soils (NPS-HPL) matters.

Late Evidence Request from Waka Kotahi

3. On Monday 27th February the Chairperson received the following request from counsel for Waka Kotahi, a submitter on the Private Plan Change, via the Hearings Administrator.

I write to request an extension to the timeframe to provide evidence from our traffic and safety engineer Richard Landon-Lane.

Richard was on unexpected leave last week as he was involved assisting with his family who were caught up in the Cyclone Gabrielle weather event. He was to return to the office this morning, but has now caught COVID-19.

Therefore, I respectfully seek an extension for the provision of his evidence until COB 6 March 2023. This is not expected to impact our other statements of evidence, which will still be able to be lodged on time by Thursday 2 March.

4. While being mindful of s41B(4) of the RMA, that requires all expert submitter evidence to be supplied within 5 working days of the commencement of the hearings, in these exceptional circumstances I grant this request for the late filing of Mr Landon-Lane's evidence, that is to be provided to the Hearings Administrator by **Noon on 6 March 2023**. The Hearings Administrator, on receipt of this evidence shall forward it to all parties on receipt, recognising that counsel for the Requestor has to file legal submissions with us by 3p.m. the following day, 7th March 2023.

Direction for a Report and Evidence on Matters concerning the NPS-HPL

5. On Monday 27th February the Hearings Panel received the following correspondence from the Hearings Administrator.

In their hearing evidence, Welhom Developments Ltd have introduced new material regarding the National Policy Statement on Highly Productive Land (NPS-HPL). I note that this material was the subject of the Memorandum of Counsel submitted by Russell McVeagh on behalf of Welhom.

The s42A report did not include an assessment of the plan change against the NPS-HPL because there was insufficient information in the Request to assess whether it complied or not. In light of the new material submitted by Welhom, Council would like the opportunity to seek expert advice on the material.

6. We have since been advised that Mr Ian Millner from LandVision Limited has been approached and is available to prepare a Report and expert evidence on this matter for the Council.
7. We therefore accept the Council request for the reasons they have provided, and pursuant to s41(1AA)(b) of the RMA direct that:

- a. Mr Millner review the evidence of Mr James Allen and any subsequent expert evidence provided by any submitter relating to this matter;
- b. Undertake a site visit and any necessary soil testing and research on the site;
- c. The Requestor liaise with the Hearings Administrator to facilitate access to the site for Mr Millner for the purpose of b. above;
- d. Mr Millner provides a report and associated expert evidence within his field of expertise on all relevant matters that the Hearings Panel is required to consider under the provisions of the NPS-HPL by **Noon on 6 March 2023**;
- e. The Hearing Administrator, on receipt of this evidence shall forward it to all parties on receipt, recognising that counsel for the Requestor has to file legal submissions with us by 3p.m. the following day, 7th March 2023.
- f. Mr Allen is to furnish with the Panel rebuttal evidence relating to Mr Millner's Report and evidence by **Noon on 9 March 2023**;
- g. The Hearings Administrator shall programme a time on **10 March 2023**, for the Hearings Panel to hear the evidence of Messrs Allan and Millner; and
- h. Counsel for any party shall have the opportunity to table and speak to supplementary legal submissions on this matter, during the hearing on **10 March 2023**. Given the timeframes outlined above any such supplementary legal submissions do not need to be pre-circulated and can be tabled on the day.

8. Pursuant to s42A(5)(a) the Hearings Panel waive compliance with subsection 42A (3) as we are satisfied that there is no material prejudice, or is not aware of any material prejudice, to any person who should have been provided with a copy of the report and evidence within the timeframes provided under that subsection. This is because:

- a. We have provided a reasonable and fair process for receiving further advice on this key decision-making matter, under the process outlined in paragraph 7 above; and

b. We do not consider the alternative of delaying the hearing of this matter to accommodate a more extended timeframe would meet our duty under s21 to avoid unreasonable delays.

9. Counsel for any party are welcome to address us on these directions in writing, by 5p.m. on **2 March 2023**.

DATED this 1st day of March 2023

A handwritten signature in black ink, appearing to read 'Stephen Daysh', written in a cursive style.

Stephen Daysh
Chair – Independent Hearings Panel

For and on behalf of:
Commissioner: Stephen Daysh
Commissioner: David McMahon