

BEFORE THE INDEPENDENT COMMISSIONER

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of a Notice of Requirement from the Palmerston North City Council for a designation of a new road connection between Abby Road and Johnstone Drive, Palmerston North

MEMORANDUM OF COUNSEL FOR THE REQUIRING AUTHORITY

Dated: 1 May 2020



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MEMORANDUM OF COUNSEL FOR THE REQUIRING AUTHORITY

MAY IT PLEASE THE COMMISSIONER:

- [1] This is a progress report to update the Commissioner on the Requiring Authority's attempts to liaise with Submitters about their submissions and preparations for the hearing, in accordance with the Commissioner's Minute dated 17 April 2020.

Update on discussions with submitters

- [2] The Requiring Authority individually contacted all Submitters, inviting them to attend a pre-hearing discussion with the Requiring Authority and a representative for the Council's Reporting Officers. A brief report on those engagements is below.
- [3] **Lynne Bishop** – the Council as Requiring Authority, and Mr O'Leary for the reporting officers met with Ms Bishop in a Zoom meeting on Tuesday, 28 April 2020. The discussion was productive, and the parties to the meeting agreed that an approved copy of the meeting notes can be circulated with this report. Ms Bishop preserves her opposition to the Notice of Requirement, but usefully clarified her concerns. It is anticipated that Ms Bishop will speak to her submission at the hearing and will not be calling expert evidence. A copy of the meeting notes are **attached**. The Council will continue to engage with Ms Bishop leading up to the hearing.
- [4] **Powerco** – advised by email (**attached**) that it is not intending to speak at the hearing and did not wish to have a meeting.
- [5] **Horizons Regional Council** – advised by email (**attached**) that it no longer intends to speak at the hearing, confirming that it "*generally support[s] the proposal*".
- [6] **Aokautere Land Holdings Ltd** – a meeting with Aokautere Land Holdings Ltd was scheduled for Wednesday, 29 April 2020 but was cancelled by the Submitter. The parties are in discussions to reschedule the meeting for next week, beginning 4 May 2020. Aokautere Land Holdings Ltd has been advised

as to the purpose of the meeting, and that the Council and the Commissioner will be interested to understand whether it intends to call technical experts.

- [7] In the case of ALHL, it would be appropriate to give a direction that it must advise the Requiring authority and the Reporting Officers whether it intends to call expert witnesses, and the names and areas of expertise of those witnesses.

Section 92 information

- [8] The Requiring Authority is currently compiling responses to the Reporting Officers' request for further information under s 92 of the RMA. These responses will be provided as soon as possible, likely early next week.

Conferencing

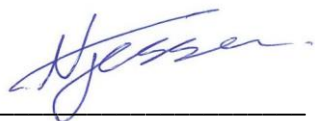
- [9] Whether formalised conferencing will be required may well depend upon whether Aokautere Land Holdings Ltd intends to call technical experts. This is not yet known.
- [10] In any case, the Council (as Requiring Authority) suggests that the expert pairings with the reporting officers would nevertheless be useful to resolve any residual issues, and to address appropriate conditions.
- [11] To that extent, it may be appropriate to schedule Expert conferencing for the week following the Council's Reporting Officer's evidence is due (whenever that will be). Done in this way, the conferencing outcomes will hopefully ensure that the Requiring authority evidence can be confined to key issues.
- [12] Allowing conferencing at that stage may, therefore, require some adjustment to the evidence timetable at paragraph 20. An extra 2 days for the requiring authority would be enough.

Hearing

- [13] It is not clear whether a hearing has been set down, and if so, on what date and in what manner? The Requiring Authority records that it can be ready to attend a hearing via zoom meeting, and this may well be appropriate and convenient for all parties, and this would enable the hearing to be set down

with some certainty for the parties. ALHL and the Council have already successfully engaged in one Zoom hearing during the Level 4 Lockdown in respect of a resource consent.

DATED 1 May 2020

A handwritten signature in blue ink, appearing to read 'Jessen', is written above a horizontal line.

Nicholas Jessen

Counsel for Palmerston North City Council



**PALMERSTON NORTH COUNCIL – NOTICE OF REQUIREMENT
CONNECTION BETWEEN ABBY ROAD AND JOHNSTONE DRIVE, PALMERSTON
NORTH**

**RECORD OF PRE-HEARING MEETING
HELD 28 APRIL 2020**

Meeting Details: Held by Zoom Video Conference, 3.00 pm Wednesday, 28 April 2020

In Attendance:

- NJ - Nicholas Jessen (Legal Counsel, Palmerston North City Council, as Requiring Authority)
- DM - David Murphy (City Planning Manager, Palmerston North City Council, as Requiring Authority)
- RO - Ryan O'Leary (Senior Planner, The Property Group, as Reporting Officer)
- LB - Lynne Bishop (Submitter)

By agreement with the participants, these condensed meeting notes may be disclosed to the Commissioner in a report

1. Introductions

- NJ introduced the meeting, explaining the respective roles of the Council as requiring authority and reporting officers, and the purpose of the pre-hearing meeting.

2. Overview of road project

- DM explained the strategic importance of the road connection to the development and implementation of a structure plan for the wider Aokautere Area, noting that an objective of the structure planning and plan change work underway was to provide clarity in terms of what is expected for Aokautere.
- DM explained that a focus of the Council in preparing the structure plan would be to secure the roading component across the gullies and to retain the natural landform of the gullies
- DM acknowledged a tension between a desire to keep the gullies unmodified and the objective to increase roading connectivity through Aokautere.

- DM emphasised that the council was increasingly recognising the role of gully systems in terms of landscape and landform and in terms of stormwater control for development, and that it was not the Council's intention that this project enable or facilitate further earthworks or residential development within the Abby Road gully landform. To emphasise this point, DM referred to the draft structure plan for Aokautere, showing residential development on flat terraces in between gully systems.
- DM clarified that the Council's intention was that the project work would hug the existing landform as much as possible to ensure that the visual effects and change to that landform was minimised. NJ added that conditions could and likely would be imposed on the requirement to ensure this, and further conditions (possibly restorative planting on road embankments) would be discussed.

3. Key Submitter Issues

- LB explained that her family has lived at the property for 25 years adjacent to the gully, and purchased the property solely because it was advertised by the developer stating there was a reserve and that it was going to be planted up with trees (or something similar).
- LB's preference is for the gully to remain unmodified and preferably as a reserve.
- LB explained that her primary concern with the project is that it would inevitably lead to the filling in or otherwise further residential development in the head of the gully between the proposed road and LB's property. LB seeks assurances from the Council that the project is not intended to facilitate residential development in this area.
- LB explained that a secondary concern would be the visual impact of the road in the gully and how that would affect the view from her house. LB acknowledged the Council's intention for the road to hug the landform but still expressed some concern that the road would present as an eyesore from her perspective.
- LB clarified that while she retained her overall opposition to the project, if the road was approved, she would like conditions on the NOR to mitigate its visual impact.
- LB also queried who would be undertaking the project works on behalf of the Council.

4. Discussion

- DM, and NJ expressed an understanding of LB's concerns.
- DM and NJ said that involvement of LB in the forthcoming Aokautere structure plan change would be the appropriate forum to express her views and opinion concerning the retention of the gully landform outside of the area covered by the notice of requirement. DM, and NJ said

that this would be the forum where the objectives, policies, and rules relating to activities within the broader gully area would be considered. DM and NJ explained that because the plan change process was contestable, it could not guarantee a particular approach for long term management of gully systems.

- DM, NJ said that the evidence of the requiring authority would elaborate on the Council's broader strategic approach for Aokautere, including likely timeframes.
- DM, NJ and RO said that draft conditions to be recommended for the NOR would be a subject of discussion between the requiring authority and reporting officers in the coming weeks.
- DM and NJ explained that the Council did not yet know which contractor would be undertaking the project, but clarified that it would be a Council project that would need to be undertaken with its oversight and subject to its standards, and in accordance with any conditions of the notice of requirement.

5. Actions

- LB will reserve her position on the NOR, for consideration after receipt of the Council evidence and recommended conditions on the NOR.

From: [Gary Scholfield](#)
To: [Jaime Puklowski](#)
Subject: RE: Pre-Hearing Meeting
Date: Thursday, 23 April 2020 1:16:33 PM
Attachments: [image003.png](#)
[image006.png](#)

Hi Jamie

Thanks for the invite – however I hadn't intended to speak at the hearing. As such, I won't attend the pre-hearing meeting.

Thanks and regards

Gary Scholfield | Environmental Planner | **POWERCO**

Ext 5659 | Ph +64 7 928 5659 | Mobile +64 27 598 4145 | Web www.powerco.co.nz

From: Jaime Puklowski <JPuklowski@crlaw.co.nz>
Sent: Thursday, 23 April 2020 12:52 pm
To: Gary Scholfield <Gary.Scholfield@powerco.co.nz>
Subject: Pre-Hearing Meeting

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Gary,

Further to the Hearing Commissioner's Minute on the Notice of Requirement: Road Connection between Abby Road and Johnstone Drive, Palmerston North, this email sets out the Requiring Authority's intention to hold pre-hearing meetings on the key issues raised in submissions.

The Hearing Commissioner has suggested that pre-hearing meetings are facilitated and reported on by Friday, 1 May 2020.

Therefore, **you are invited to attend a pre hearing meeting on Tuesday, 28 April at 1pm via Zoom**. Can you please reply to this email to confirm you are available on the proposed day/time. Please include details of who will be attending, to ensure that all attendees receive an invite.

A formal invitation will follow with a link to the meeting once we have finalised a timetable for the meetings.

Jaime Puklowski
Legal Secretary

From: [Sarah Carswell](#)
To: [Jaime Puklowski](#)
Subject: Notice of Requirement: Road Connection between Abby Road and Johnstone Drive, Palmerston North,
Date: Friday, 1 May 2020 8:44:19 AM

Hi Jaime,

Apologies for not getting back to you earlier.

Horizons no longer wishes to be heard in regards to the Notice of Requirement: Road Connection between Abby Road and Johnstone Drive, Palmerston North, as we generally support the proposal.

Kind regards

SARAH CARSWELL | Coordinator District Advice
E help@horizons.govt.nz | 0508 800 800



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