

PALMERSTON NORTH CITY COUNCIL
NEW NOTICE OF REQUIREMENT: ROAD CONNECTION BETWEEN ABBY
ROAD AND JOHNSTONE DRIVE, PALMERSTON NORTH
MINUTE 1 OF INDEPENDENT HEARING COMMISSIONER

Introduction

1. This Minute is being sent to you because you are either the requiring authority, a submitter or a council reporting officer to the above notice of requirement.
2. Pursuant to section 34A of the Resource Management Act 1991 (“**RMA**”) I have been appointed by Palmerston North City Council (“**PNCC**”) to consider, hear and determine a Notice of Requirement sought from PNCC, by PNCC (“**the Requiring Authority**”) to enable the construction of a two-lane ‘link road’, approximately 180 metres long, connecting Abby Road with a T intersection at Johnstone Drive.
3. The general function of this Minute is to set out some preliminary matters in preparation for the hearing, which is to be held on **31 March 2021**. All parties have already been formally advised directly by the PNCC hearing administrator of the hearing date and venue.
4. In the meantime, my objective at this preliminary stage is to establish some procedures to facilitate a smooth and effective pre-hearing and hearing process for all parties. This requires some actions from all the parties.
5. In this respect, this minute covers the following matters:
 - (a) Covid-19 matters
 - (b) circulation of evidence;
 - (c) pre-hearing discussions/conferencing;
 - (d) hearing process and presentations; and
 - (e) site and locality visits.
6. It is likely that I will issue additional minutes with further requests and instructions, before, during and/or after the hearing.

Covid 19 Matters

7. In the current circumstances (Level 2 for Palmerston North), I will proceed with the lead up to this hearing as electronically as possible. Whether the hearing is held traditionally (most likely) or via a remote platform such as Zoom will depend on what level of alert the country is in at the time of the hearing. The Council has experience in conducting hearings using video-conferencing and this will allow the hearing to proceed should more strict lockdown requirements be in force. Further information will be provided by the PNCC hearing administrator as it becomes available. Please be assured that whatever forum is used for the hearing it will not be at the expense of giving all parties an appropriate opportunity to fully express their position.
8. In the meantime, this minute sets out directions and guidance for matters regarding the lead up to the hearing and the hearing itself.

Circulation of evidence before hearing

9. Pursuant to Sections 41B and 42A of the RMA I direct that evidence be pre-circulated in accordance with the following timeframes as set out in the Act:
 - (a) the Section 42A Report and any expert evidence called by PNCC will be made available a minimum of 15 working days prior to the start of the hearing; being **9th March 2021**;
 - (b) the Requiring Authority's expert evidence will be made available at least 10 working days before the start of the hearing; being **16th March 2021**; and
 - (c) any expert evidence called by submitters must be made available at least 5 working days before the start of the hearing; being **23rd March 2021**.
10. Evidence will either be emailed to parties or made available on the PNCC website. On the above dates.
11. To be clear, submitters do not need to pre-circulate any non-expert presentation material they wish to speak to at the hearing. The above circulation requirements only apply to any expert evidence submitters wish to call. For any questions of clarification about professional expertise and the code of conduct for expert witnesses, please contact the PNCC administrator in the first instance.
12. Any legal submissions by counsel for the parties can be made at the hearing and are not subject to pre-circulation (unless the hearing is being held via a form of virtual conference) .

Pre-hearing discussions & conferencing

13. With most hearings of this nature, all parties (requiring authority, submitters and council officers) are encouraged to engage in constructive discussions where practicable before the hearing commences so as to minimise the range of issues in contention. This may occur through expert witness conferencing, pre-hearing "meetings" or other informal exchanges – and all are welcome.
14. Notwithstanding the above, I am not formally directing the undertaking of, or participation in, formal pre-hearing meetings, discussions or expert conferencing at this stage. I do, however, encourage pre-hearing liaison and extend that encouragement to any parties prior to the commencement of the hearing. This may include general liaison amongst the parties:
 - (a) to discuss any substantive matters;
 - (b) for submitters to gain a better understanding of what the proposal entails and what the effects and implications may be; and
 - (c) for PNCC (as the Requiring Authority) to better understand what the submitters' substantive concerns are and how they might be accommodated.
15. It may be that some parties may seek to engage experts, where matters relating to landscape and visual amenity effects, cost benefit analysis, consideration of alternatives and the necessity for and proposed design of the link road are concerned. If so, then expert witness conferencing on these matters and the subsequent preparation of joint witness statements confirming the experts' respective areas of agreement and disagreement may prove to be of benefit. Again this is completely voluntary.

16. In the event that discussions and pre-hearing meetings do confirm that expert conferencing would be of benefit, then I will issue specific directions to that effect. These would include directions:
17. I will remain in contact with the PNCC administrator to facilitate any pre-hearing processes as required, and will keep all parties informed through additional minutes as necessary.

Hearing process and presentations

18. I anticipate that a hearing of this nature may be a new experience for some submitters, so I will take a brief moment here to provide some information about the hearing for context.
19. For starters, I encourage all submitters to refer to the useful guides about the designation process and hearings available from the Ministry for the Environment website. The links below, in particular, are a great source of information:

<https://www.mfe.govt.nz/publications/rma/everyday-guide-rma-designation-process>

<https://www.mfe.govt.nz/publications/rma/everyday-guide-rma-appearing-council-resource-consent-hearing>
20. Consistent with the latter guide, my preference is for proceedings to be relatively informal. However, a degree of formality is inherent in hearings of this nature, and I will speak to that at the outset of the hearing when it commences.
21. More substantively, the hearing enables me to hear the issues raised in submissions in greater detail, and to be able to ask questions to improve my understanding of those issues.
22. As a rule of thumb, parties should target presentations of 15-30 minutes or so. This is less a rigid requirement than it is a rough indication, and all parties appearing will be given sufficient time to present their views.
23. The PNCC administrator will be in touch to request an indication from all parties as to the amount of time they require for their presentation so that an indicative schedule can be prepared.

Site and locality visits

24. I am familiar with the site and general locality.
25. I expect that I will need to undertake more detailed site and locality visits both before and after the hearing. In that respect, if any party has a desire for me to visit particular sites/localities they should advise the PNCC administrator.

Next steps

26. As summarised above I now require the sequential circulation of evidence as outlined in Paragraph 9 of this Minute.
27. If the Requiring Authority wishes to liaise with submitters to discuss issues raised in submissions and resolve any issues, where practical, that is encouraged.
28. I also request that any party wishing me to visit a particular site or locality advise the PNCC administrator by **16 March 2021**.
29. The PNCC administrator is Susana Figlioli – the Council's Democracy & Governance Administrator. She can be reached at susana.figlioli@pncc.govt.nz or (06) 356 8199 extension 7152.

DATED this 3rd day of March 2021



DJ McMahon
Independent Hearings Commissioner