

## INFORMATION CONCERNING PROCEDURE FOR A HEARING OF SUBMISSIONS ON A NOTICE OF REQUIREMENT

This information is for the assistance of persons participating in the hearing of submissions on a Notice of Requirement.

### 1. Sources of Information

a) The Notice of Requirement, Commissioner Minutes, Evidence and Agenda can be viewed at <https://www.pncc.govt.nz/get-involved/have-your-say/te-ahu-a-tūranga-manawatū-tararua-highway/> or at the offices listed below during normal working hours

- The Customer Service Centre, Palmerston North City Council, The Square, Palmerston North.
- The Palmerston North Public Library, The Square, Palmerston North (2<sup>nd</sup> floor, NZ Pacific Zone).
- The Ashhurst Community Library, Cnr Cambridge and Bamford Streets, Ashhurst.
- The Customer Service Centre, Manawatu District Council, 135 Manchester St, Feilding.
- The Feilding Library, 60 Stafford St, Feilding.
- The Dannevirke Service Centre, Tararua District Council, 26 Gordon St, Dannevirke.
- Tararua District Library, 1 Station St, Dannevirke.
- The Woodville Service Centre and Library, 42 Vogel St, Woodville.
- Pahiatua Service Centre, 136 Main St, Pahiatua.
- Pahiatua Library, 167 Main St, Pahiatua.
- Eketahuna Service Centre & Library, 31 Main St, Eketahuna.

b) Hearing Administrator

The Hearing Administrator is Kath Olliver and she can be contacted by email at [kath.olliver@pncc.govt.nz](mailto:kath.olliver@pncc.govt.nz) or Phone 06 356 8199 ext 7089.

### 2. Site Visit Requests

Given the Panel will undertake a site visit before the Hearing Date participants are requested to inform the Panel via the Hearing Administrator by **Friday 15 March 2019** of areas of interest along with supporting reasons that they would wish the Panel to be included within the site visit for the Panel's consideration.

### 3. Te Reo Maori & Sign Language Notification

Any participant, Counsel or witness may speak in Te Reo Māori or utilise Sign language.

At least 10 working days prior to notice from the Hearing Date of an intention to use either Te Reo Maori or Sign Language is to be provided to the Hearing Administrator so

that the attendance of an interpreter can be arranged. Notice is to be given by **Friday 8 March 2019**.

However, any karakia, powhiri or mihi, will not be translated in English language unless the presenter wishes and has given such prior notice. Solely for guidance, we observe that the Maori Language Act 1987 expressly provides that no person may insist on being addressed in Te Reo Maori.

#### **4. Hearings Panel Conducting the Hearing**

The Councils have delegated the conduct of the Hearing and the power to make a decision/recommendation to the Requiring Authority (NZTA) to a panel of independent certified Commissioners.

As detailed in [Section 172](#) of RMA NZTA shall advise within 30 days of receiving the decision/recommendation of Councils whether they accept or reject the decision/recommendation in whole or in part. The requirement may be modified by NZTA if, and only if, that modification is recommended by Councils or is not inconsistent with the requirement as notified. If NZTA rejects the recommendation in whole or in part, it shall give reasons for its decision.

[Section 173](#) requires that, within 15 days of receiving NZTA's decision that Council must issue a notice of decision and serve this on all submitters and landowners directly affected.

Appeals - see paragraph 21 below

#### **5. Venue for the Hearing**

The Hearing will be held at the [Distinction Hotel](#), 175 Cuba Street, Palmerston North.

Room: Carlton 2  
Access: Ground Floor.

#### **6. Public Hearings**

All hearings are public and the media and any member of the public is entitled to be present. The Hearings Panel has the power, however, to make an order to protect sensitive information. (*See paragraph 15 below*).

#### **7. Conduct of the Hearing**

On arrival at the venue please check in with the Hearing Administrator.

At the start of the Hearing the Chairperson of the Hearing Panel, will introduce the Hearing Panel, if appropriate, and staff members present and will briefly outline the Hearing procedure.

Subject to any further direction the Panel may issue, the Panel will adopt the following order for the Hearing:

- a) Any procedural matters raised by any participant will be dealt with as a preliminary matter;
- b) Opening submissions from the Agency, followed by the Agency's witnesses, who are to appear in person;
- c) Submitters and witnesses who appear in support of the project and related NOR's;

- d) Submitters and witnesses who oppose the project and related NOR's;
- e) Submitters and witnesses who are neutral but wish to provide relevant materials;
- f) Section 42A reporting officers presenting summaries and comments on evidence presented;
- g) Closing reply from the Agency.

## 8. **Agenda**

An agenda for the hearing will be sent to all submitters, copies made available to the offices listed above for viewing during normal office hours and will be available [here](#).

The agenda lists the submissions generally in the order they will be considered by the Hearing Panel, (applicant, submitters then Councils) although there may be some variation to this. You are welcome to be present for the hearing of all submissions if you wish.

Please contact the [Hearing Administrator](#) if you have any queries on the agenda.

## 9. **Attendance of Parties**

Unless you have previously sought and been granted an adjournment of your attendance at the hearing, if you do not or are unable to attend the Hearing, the Hearing Panel may proceed and make decisions in your absence.

## 10. **Engagement of Counsel**

You can present your own case, but if you wish you can engage legal counsel or any other person to appear on your behalf.

## 11. **Preparation of Evidence**

Important requirements for the preparation and circulation of reports and evidence are set out in the letter giving you [notice of the hearing](#).

If you are the Requiring Authority, you are required to provide briefs of your evidence to the [Hearing Administrator](#) **by 5pm on Friday 8 March 2019**.

If any person who has made a submission intends to present expert evidence, that person is to provide a written brief of that expert evidence to the Hearing Administrator **by 5pm on Friday 15 March 2019**.

Either prior to or following the exchange of expert evidence as detailed above, the Panel requests that all participants call expert witnesses liaise amongst themselves, along with the hearing Administrator, in order to facilitate their respective expert conferencing on matters relevant to their specific areas of expertise (including any applicable conditions of consent).

For all reports and evidence that are pre-circulated before the Hearing, the Hearing Panel may decide that the evidence be taken as read or that you may elaborate on principal points. In this case, there would be no need for this evidence to be read in full. You will not be obliged to elaborate any further unless asked to.

However, if your evidence is written but is tabled for the first time at the Hearing, your evidence must be read in full by yourself or by your representative. You should also

have copies of your evidence available for distribution by the Hearing Administrator, to the Hearing Panel, other parties, the Reporting Officers and the media.

It would assist the Hearing Panel if you prepare a written copy of your evidence. It is not necessary to produce copies of the original submission itself as the Hearing Panel will have been previously supplied with this.

The S42A Reporting Officer's Report on behalf of the Councils will be circulated to the parties with the agenda prior to the Hearing. Other evidence given to the Council before the Hearing will be circulated to the parties when it becomes available. See the first [hearing minute](#).

## 12. **Content of Evidence**

Parties may elaborate on points they have already raised in their original submission.

Where it is considered that there is likely to be excessive repetition, the Chairperson of the Hearing Panel may limit the circumstances in which parties having the same interest may speak or present evidence.

## 13. **Visual Aids**

If you wish to use a data projector, video, whiteboard, pin-up board or a similar aid, please contact the Hearing Administrator no later than two days before the Hearing so that arrangements can be made.

## 14. **Contents of Other Submissions**

If you would like to read other submissions before the Hearing, you are welcome to do so. It is normal practice to include all submissions as an attachment to the agenda, however the number of submissions is such that the attachment would be too large. They may be viewed at the offices listed above when these offices are open to the public, or are available at <https://www.pncc.govt.nz/get-involved/have-your-say/te-ahu-a-tūranga-manawatū-tararua-highway/>.

## 15. **Evidence**

The Hearing Panel will receive evidence in the manner detailed within the first hearing [minute dated 28 Jan 2019](#). The Panel does have the power to and may require evidence given at the Hearing to be on Oath or Affirmation. Any pre-circulated evidence may also be required to be sworn whether it is read or taken as read. However, this power is rarely used.

If a witness is unable to attend the Hearing, the Hearings Committee or Commissioner has the discretion to accept evidence in any form including in the form of an affidavit. An affidavit must be in writing, sworn before a solicitor, Justice of the Peace or other authorised officer, and should also set out the reasons why the witness is unable to attend the Hearing in person.

## 16. **Sensitive Information**

The Hearing Panel may make an order to protect sensitive information. The reasons for which such an order can be made, and the consequences, are detailed in Section 42 of the Resource Management Act 1991. Any request or application inclusive of supporting reasons to the hearings panel seeking to protect sensitive information must be made as early as possible.

**17. Cross Examination**

There is no right of cross-examination. This means that the parties do not have the right to address questions to other parties, or to the Hearing Panel. The Hearing Panel may, however, question any party concerning their submission or evidence. At the hearing if a party does have a question they wish to ask another attending party then they may ask the Panel to consider putting that question to the other party. The Panel has full discretion to put the question or not.

**18. Adjournment of the Hearing**

The Hearing Panel has the power to adjourn the Hearing.

**19. Decision of the Hearing**

After the Hearing Panel has heard the evidence and submissions, it will usually declare the Hearing closed to consider its decision. All parties will be advised in writing of the Panel's recommendation to NZTA (i.e. it's decision – see paragraph 4 above).

**20. Additional Information**

After the Hearing Panel has reserved its recommendation, further details of information from any party involved in the proceedings may be requested. If this happens, all parties will be circulated with copies of the additional information obtained and will at the discretion of the Hearing Panel be given the opportunity to comment before the Hearing Panel makes a final decision.

**21. Appeals against Council Decision**

Any person who has made a submission has a right of appeal to the Environment Court. Such appeal may be against the whole or any part of the decision. The time within which the right of appeal to the Environment Court must be exercised is within 15 working days of notice of the decision of the Requiring Authority being received in accordance with the Resource Management Act 1991. All parties will be sent a copy of the decision and it will be available at <https://www.pncc.govt.nz/get-involved/have-your-say/te-ahu-a-tūranga-manawatū-tararua-highway/>

Because the appeal procedure is more involved than the initial Hearing, it is suggested that parties consult a solicitor as soon as the decision is released if they wish to appeal.

**22. Variation of Procedure**

The Hearing Panel may, at its sole discretion, vary the procedures set out above if the circumstances indicate that some other procedure would be more appropriate. Please send applications to the [Hearing Administrator](#).

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