

PALMERSTON NORTH CITY COUNCIL
RC LU 5331
ALL SAINTS CHURCH – 338 CHURCH STREET
MINUTE 1 OF HEARING PANEL

Introduction

1. Pursuant to section 34A of the Resource Management Act 1991 (“**RMA**”) we have been appointed by the Palmerston North City Council (“**the Council**”) to hear and determine an application from the Anglican Diocese of Wellington (“**the applicant**”) for land use consent to carry out additions and alterations of All Saints Church, including partial demolition, seismic upgrade and redevelopment.
2. The general function of this Minute is to establish some processes to facilitate a smooth and effective pre-hearing and hearing process for all parties. This requires some actions from all parties in readiness for the formal proceedings.
3. In this respect, this minute covers the following matters:
 - (a) hearing date;
 - (b) pre-hearing conferencing;
 - (c) circulation of evidence;
 - (d) hearing process and presentations; and
 - (e) site and locality visits.
4. It is likely that we will issue additional minutes with further requests and instructions, before, during and/or after the hearing.

Hearing date

5. The hearing will be held during the week of **18 January 2021**. A formal hearing notice, including precise dates, times, venue, etc will be sent by the council in due course.
6. We note that the applicant requested that the hearing be held in the third week of December this year. Unfortunately, due to long-standing commitments on other matters, the panel is unable to satisfy that request. We are sympathetic to the applicant’s desires for an expeditious process; however, the panel members’ other December commitments cannot be shifted.
7. That said, we have scheduled a hearing date for the week after the RMA statutory calendar recommences in 2021, which will allow for all of the evidence circulation to happen before the end of this year.
8. We discuss that further below – but turn our attention firstly to conferencing opportunities.

Pre-hearing conferencing

9. One benefit of a January 2021 hearing date is that affords some time now for expert conferencing to occur over the coming weeks. That, in turn, should make for a more efficient hearing process overall.
10. Conferencing enables experts of a particular field – for example urban design, heritage, economics and planning – to identify key matters of agreement and disagreement, which will assist our understanding of the key issues in contention and reduce unnecessary duplication in evidence.
11. Experts may be called by any party, and in order to ensure that all experts are invited to attend the appropriate conferencing session, we now require all parties to advise the experts they intend to call, and the corresponding fields of expertise. Accordingly, we direct that by **5pm on Tuesday 17 November**:
 - (a) the Council, the applicant and any submitters who are calling expert evidence advise the name of experts being called and their area of expertise;
 - (b) those parties also confirm whether their experts will be available for conferencing, and if not, reasons why; and
 - (c) the parties are to provide the above information to the Hearing Administrator, Ms Heather McGregor via heather.mcgregor@pncc.govt.nz.
12. Submitters who do not intend to call experts do not need to provide any response.
13. Ms McGregor will collate the responses and liaise with the Council's planning advisor, Mr Ryan O'Leary for the purposes of coordinating conferencing sessions. It is possible that we will issue a further minute at that time with direction for specific conferencing. In the meantime however, for any conferencing sessions held, we direct that:
 - (a) the conference may be held in person or via videolink, but may only be attended by experts in the applicable field and (if necessary) by an appropriate person to provide administrative support with the production of joint witness statements;
 - (b) all experts must participate in accordance with the code of conduct for expert witnesses as set out in part 7 of the [Environment Court's Practice Note](#), and should review the protocol for expert witness conferencing in Appendix 3 to the Practice Note prior to attending conferences;
 - (c) a joint witness statement will be produced for each session which clearly identifies any areas of agreement and disagreement, including reasons;
 - (d) sessions will be completed over the next 2 weeks, with all joint witness statements being provided by **5pm Monday 30 November 2020**;
 - (e) all joint witness statements are provided to Ms McGregor, who will ensure the statements are available on the Council Website for all parties to access as soon as practicable.
14. We do not envisage the need for the conferences to be facilitated, but if parties would prefer facilitated sessions, they should signal that to Ms McGregor at the time of advising the name and field of experts being called.

Evidence circulation timetable

15. As the application was notified, s103B of the RMA requires that evidence be exchanged before the hearing starts. With hearing proceedings commencing the week of 18 January 2021, the corresponding timetable for evidence exchange is as follows:
- (a) the Council's Section 42A Report and any expert evidence called by the Council will be made available by **Friday 4 December 2020**;
 - (a) the applicant's evidence will be made available by **Friday 11 December 2020**; and
 - (b) the submitters' evidence will be made available by **Friday 18 December 2020**.
16. **All evidence is to be emailed to Ms McGregor by 3pm on the date specified above** so that the material can be distributed to all parties by 5pm on the same day via the Council website.
17. To be clear, submitters do not need to pre-circulate any 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 Ms McGregor in the first instance.
18. Any legal submissions by counsel for the parties can be tabled at the hearing and is not subject to pre-circulation.

Hearing process and presentations

19. We anticipate that a hearing of this nature will be a new experience for some submitters involved, so we will take a brief moment here to provide some information about the hearing for context.
20. For starters, we encourage all submitters to refer to the useful guides about resource consents and hearings available from the Ministry for the Environment website. The link below, in particular, is a great source of information:
- <http://www.mfe.govt.nz/node/16376>
21. Consistent with this guide, our preference is for proceedings to be relatively informal. However, a degree of formality is inherent in hearings of this nature, and we will speak to that at the outset of proceedings.
22. More substantively, the hearing enables us to hear the issues raised in submissions in greater detail, and to be able to ask questions to improve our understanding of those issues.
23. As a rule of thumb, submitters 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.
24. The Council will be in contact with submitters in the coming weeks to issue a formal notice of hearing. Parties should expect at that time that the Council will request an

indication as to the amount of time they require for their presentation for scheduling purposes.

25. Experts will not need to read their evidence verbatim at the hearing as we will have read all material circulated prior to the hearing commencement. Experts should, however, plan to provide us with a brief 'highlights package' of their evidence at the start of their presentations – which can either be a standalone printed summary, or a verbal summary that refers us to key sections of their pre-circulated evidence.

Site and locality visits

26. We will undertake site and locality visits both before and after the hearing. In that respect, if any party has a desire for us to visit particular sites/localities they should advise Ms McGregor as soon as possible.

Next Steps

27. As summarised above all parties who intend to call expert evidence at the hearing must advise Ms McGregor by **5pm next Tuesday, 17 November** of each expert's name and area of expertise.
28. From there, conferencing and expert evidence exchanges will occur into the lead up to the hearing set down for mid-January of next year.
29. For any questions of clarification regarding the above, please email Ms McGregor in the first instance.

11 November 2020



DJ McMahon
Hearing Panel Chair

For and on behalf of:
Commissioner J Black
Commissioner H Lutz
Commissioner DJ McMahon