

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of hearing submissions and further submissions on the Proposed Waikato District Plan.

**AND**

**IN THE MATTER** of expert conferencing in respect of the Ohinewai Rezoning: Hearing Topic 19.

### **FURTHER MINUTE AND DIRECTIONS FROM HEARING COMMISSIONERS**

**8 May 2020**

1. We issued a Minute on 4 May 2020 in which we canvassed the issue of Commissioners Mitchell and Cooney facilitating the expert conferencing that has been proposed for the Ohinewai Rezoning Hearing Topic.
2. That Minute included the following:
  10. If any submitter has a contrary view to us facilitating the conferencing sessions, they are invited to send a written response with reasons to the Hearing Coordinator by **5pm on Thursday 7 May 2020**. If necessary, a Zoom meeting can be convened to discuss any issues arising.
3. Three responses were received to our Minute<sup>1</sup>, such that there is no opposition to Commissioners Mitchell and Cooney facilitating the expert conferencing.
4. In that regard, an email to the Hearings Administrator, dated 7 May 2020 and sent on behalf of the Waikato Regional Council and the New Zealand Transport Agency (parties who had previously expressed a preference for other independent persons to facilitate expert conferencing) stated:

In light of the Commissioners' minute, the Waikato Regional Council and the New Zealand Transport Agency advise that we:

1. Agree to attend the conferencing sessions that will be facilitated by the Hearing Panel, as set out in the Commissioners' minute.
2. Would like to be a party to discussions on the process issues related to the conferencing as signalled in the minute. While we appreciate the Commissioners have highlighted the

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<sup>1</sup> From: Simon Berry – counsel for Ambury Properties Limited; Miffy Foley on behalf of the Waikato Regional Council and the New Zealand Transport Agency; and Alice Lin on behalf of Genesis Energy Limited

issues to be discussed, Council and the Transport Agency are particularly concerned to ensure that updated information is provided in sufficient time to enable our experts to review and form their opinion of the implications of this information. We are also of the view that it would be beneficial for planners to attend relevant technical sessions to provide a link between the strategic and technical issues and any plan provisions that may result.

5. On the basis of our Minute of 4 May 2020 and the responses received, we confirm that the expert conferencing on the Ohinewai Rezoning Hearing Topic will be facilitated by Commissioners Mitchell and Cooney.
6. The issue that then arises is how best to proceed to arrange and undertake the expert conferencing. In that regard, our Minute of 4 May 2020 stated:
  11. Assuming all submitters agree to the conferencing being facilitated by members of the Hearing Panel, we propose to convene a Zoom meeting in the near future to discuss the following process issues relating to conferencing:
    - (a) The scope of expert conferencing and the topics to be covered, including any overlap between topics;
    - (b) The name and discipline of each expert participating in each topic. It is our intention that only technical experts attend conferencing, not lay persons;
    - (c) Whether planners attend each topic or a planning topic(s) only;
    - (d) The provision of information to be circulated in advance of each session, including an agreed agenda and key issues for each topic;
    - (e) The requirement for a Joint Witness Statement to be prepared at the conclusion of each topic session, in compliance with the Environment Court Practice Note 2014;
    - (f) The timing of the first set of conferencing sessions and whether a second round of conferencing will be required in advance of APL finalising its evidence.
7. We intend to hold a Zoom meeting to address the matters set out above. That said, to make that meeting effective, we consider there would be merit in the relevant submitters and Council staff conferring on process issues and trying to reach a consensus on them.
8. We therefore direct that the parties confer on process issues and **by 5pm on Friday 15 May 2020** provide to the Hearings Coordinator either:
  - (a) The consensus position on how expert conferencing should proceed; or
  - (b) If there is no consensus position, how the various parties consider expert conferencing should proceed.
9. If the parties require more time to confirm a consensus position, they should advise the Hearings Coordinator as soon as possible.
10. On receipt of the information referred to in paragraph 8 above, we will then arrange a Zoom meeting for a mutually convenient time, preferably in the week beginning 18 May 2020.
11. Although a matter that can be discussed further at the proposed Zoom meeting, we record here our expectation that the various experts will have discussed their differences on issues between themselves prior to any facilitated expert conferencing commencing.
12. Replies to the above, or any questions arising, should be addressed to the Hearing Coordinator Ms Sandra Kelly. Her contact details are as follows:

Email: [Districtplan@waidc.govt.nz](mailto:Districtplan@waidc.govt.nz)

or

Telephone: 027 382 0021



**PH Mitchell (Chair)**

**On behalf of the facilitators, Commissioners P Mitchell and P Cooney**

**8 May 2020**