

HUTT CITY COUNCIL
RM240334
LAND USE CONSENT – PROPOSED CLEANFILL
1044 COAST ROAD, WAINUIOMATA
MINUTE 3 OF THE INDEPENDENT HEARING COMMISSIONER

Introduction

1. This morning, I was advised by the Council's hearing advisor, Ms Shetty, that she received messages from two submitters in response to Minute 2.
2. Concerns were expressed about two matters and their potential impact on the time available for submitters to prepare for the hearing, being:
 - (a) the time extension for landscape evidence; and
 - (b) the Council's section 42A Report author's assessment that further information is required in relation to stormwater matters.
3. Both submitters have sought that the hearing be postponed to allow more time to consider whether to call expert evidence on these matters and to make their own preparations for the hearing.
4. The general purpose of this Minute is to respond to these requests.

Landscape evidence

5. As directed in Minute 2, I granted the applicant's request to provide its landscape evidence one week later than originally proposed to account for the applicant's previous expert going on maternity leave.
6. All other expert evidence for the applicant is to be provided next Monday 1 December as originally directed, being two weeks prior to the hearing.
7. To ensure fairness to all other parties due to the landscape evidence extension, I signalled that – should any submitter be calling expert landscape evidence – there would be additional time afforded for such experts to address the applicant's delayed evidence.
8. Before confirming the process to be followed to accommodate that scenario, I requested submitters to confirm by 5pm today whether they are calling evidence from a landscape expert. Some submitters have responded to that request, while others are yet to do so.
9. As noted in my introduction above, one of the submitters to respond has sought that the hearing be postponed due to the fact that the applicant will only be providing landscape evidence 7 days prior to the hearing. The submitter does not consider this provides a reasonable amount of time to analyse the applicant's landscape evidence. The submitter also stated they *may* also potentially need to employ an expert witness of which there will be insufficient time to arrange, especially being 'a week before Christmas'.

10. I am sympathetic to the submitter's viewpoint, and as noted in Minute 2 procedural fairness for all parties is a matter I am dedicated to upholding. I acknowledge again that most, if not all, submitters may not have engaged in a process of this nature, and I note also the submitter's comment regarding the pending holiday season.
11. With this in mind, I believe the process I have set down in Minute 2 allows for fair process to be followed. I do not consider the extension to the timetable for receiving the applicant's landscape evidence is unreasonable for several reasons.
12. Firstly, submitters have known about the application for several months and have had the opportunity to consider obtaining advice from experts in various fields over that time. The submitter in this instance signalled in their submission that they were seeking independent assessment of traffic effects. This suggests they are aware of the ability to obtain independent expert advice and to do so at an early stage.
13. Secondly, had I not granted the extension for the applicant's landscape evidence, any submitter intending to call expert evidence on landscape matters¹ would be required to provide that evidence by 8 December – being the week before the hearing commencement. That the submitters are now signalling they may need to arrange expert evidence 'a week before Christmas' suggests they would not have met the pre-circulation timetable requirements for such evidence.
14. Put differently, my granting of the extension to the applicant's landscape evidence should not have affected whether submitters intend to call expert landscape evidence. This is why I have asked submitters to confirm whether they intend to call that evidence as a first step in maintaining a fair and legible process for everyone. The extension does, however, affect the *process* for receiving that information *if* any submitter is calling expert evidence on that topic.
15. I acknowledge the submitter's point that submitters themselves have less time to consider the applicant's landscape evidence than would be the case if the timetable set out in Minute 1 was achieved. This is precisely why I waived the direction previously set out in Minute 1 for submitters intending to present more than 3 pages of written material to provide that in advance of the hearing – to give parties as much time as possible to prepare for their hearing presentations.
16. With all Council reports and evidence being provided on-time, and all non-landscape expert evidence from the applicant anticipated to be delivered on-time, I am satisfied *at this stage* that parties should have sufficient time to consider the delayed landscape evidence from the applicant in advance of the hearing.
17. For these reasons, I do not consider that a hearing deferral is justified on the grounds outlined by the submitter as relates to the evidence timetable changes.

Stormwater considerations

18. The other submitter referred to in my introduction has sought a hearing deferral due to the Council's reporting planner signalling in his Section 42A Report that he is unable to reach a conclusion on flooding effects due to a lack of information available on stormwater flows.
19. The submitter has expressed the view that receiving any update from the applicant on this matter at this stage puts them at a material disadvantage. The submitter

¹ And any other expert evidence

has signalled also that, depending on what information the applicant presents, they may 'be bringing an expert witness on this matter to the hearing'.

20. I have not granted leave to receive expert evidence outside of the timetable set down in Minute 1 apart from landscape matters. My expectation for all other expert evidence is to be in accordance with the timetable in Minute 1. Leave has not been granted for submitters to introduce expert evidence at the hearing with the possible exception of landscape matters as discussed above.
21. That said, I reserve my position on this matter pending receipt of the evidence called by the applicant on stormwater matters. I am unclear from the Section 42A Report how extensive this issue may be, or the extent to which it represents a material gap in the information supporting the application which has been available to the Council and submitters to date.
22. I will accordingly consider the deferral request on these grounds following my review of the applicant's evidence. For now, I am minded to maintain the current plan for the hearing to commence on 15 December; however, I will advise the parties further on this matter by way of additional minute early next week.

Closing comments

23. To summarise the above:
 - (a) the request to defer the hearing due to the change to the evidence timetable on landscape matters is not sufficiently justified;
 - (b) I will consider the request to defer the hearing due to the scope of further information from the applicant on stormwater matters following my review of the applicant's evidence due next Monday; and
 - (c) I will confirm next steps by way of a further minute following that consideration.
24. In the meantime, my request to submitters to confirm whether they are calling landscape expert evidence remains. Submitters are given a further day to respond on this matter in light of the above and are to advise Ms Shetty by 5pm tomorrow (27 November) if they have not already done so.
25. Any other expert evidence to be called by submitters remains due on 8 December at 3pm.
26. Submitters not calling expert evidence but wishing to present material themselves at the hearing may table that information at the hearing during their allocated speaking time.



J C Jones (Chair)
Independent Hearing Commissioner

26 November 2025